AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1750

Introduced by Assembly Member Solorio
(Principal coauthor: Assembly Member Gatto)
(Coauthors: Assembly Members ~~Butler and~~ *Blumenfield, Butler,* Ma*, Williams, and Yamada*)
(Coauthors: Senators Evans and Pavley)

February 17, 2012

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 1750, as amended, Solorio. Rainwater Capture Act of 2012.

(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 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 2012, which would authorize residential, commercial, and governmental landowners to install, maintain, and operate rain barrel systems, as defined, and rainwater capture systems, as defined, for specified purposes, provided

that the systems comply with specified requirements. The bill would require a local agency to provide notification to the operator of a public water system, as defined, if the local agency chooses to adopt a permitting program for rainwater capture systems and approves a permit for a rainwater capture system connected to the public water system.

(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 used exclusively for landscape irrigation. 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: no. State-mandated local program: no.

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

SECTION 1. Section 7027.5 of the Business and Professions Code is amended to read:

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

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

(1) A swimming pool, spa, or hot tub, provided that the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed

contractor holding a Swimming Pool (C-53) classification, as set forth in Section 832.53 of Title 16 of the California Code of Regulations, or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

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

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

(4) A rainwater capture system, as defined in Section 10573 of the Water Code, used exclusively for landscape irrigation.

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

(2) Notwithstanding paragraph (1), a landscape contractor performing work under the Landscape Contractor (C-27) classification, as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may design and install all exterior components of a rainwater capture system, as defined in Section 10573 of the Water Code, that are not a part of, or attached to, a structure.

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

(e) Nothing in this section authorizes a landscape contractor to engage in or perform activities that require a license pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700)).

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

PART 2.4. RAINWATER CAPTURE ACT OF 2012

10570. This part shall be known, and may be cited, as the Rainwater Capture Act of 2012.

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

(a) As California has grown and developed, the amount of stormwater flowing off buildings, parking lots, roads, and other impervious surfaces into surface water streams, flood channels, and storm sewers has increased, thereby reducing the volume of water allowed to infiltrate into groundwater aquifers and increasing water and pollution flowing to the ocean and other surface waters. At the same time, recurring droughts and water shortages in California have made local water supply augmentation and water conservation efforts a priority.

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

(c) Rainwater and stormwater, captured and properly managed, can contribute significantly to local water supplies by infiltrating and recharging groundwater aquifers, thereby increasing available supplies of drinking water. In addition, the onsite capture, storage, and use of rainwater and stormwater for nonpotable uses

significantly reduces demand for potable water, contributing to the statutory objective of a 20-percent reduction in urban per capita water use in California by December 31, 2020.

(d) Expanding opportunities for rainwater and stormwater capture to augment water supply will require efforts at all levels, from individual landowners to state and local agencies and watershed managers.

10572. Nothing in this part shall be construed to do any of the following:

(a) Alter or impair any existing rights.

(b) Change existing water rights law.

(c) Authorize a landscape contractor to engage in or perform activities that require a license pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(d) Affect the process of the California Building Standards Commission for the adoption of plumbing standards for rainwater capture systems pursuant to existing law.

10573. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

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

(b) "Rain barrel system" is a type of rainwater capture system that complies with section 3.0 of the Rainwater Catchment Design and Installation Standards adopted by the American Rainwater Catchment Systems Association as of January 1, 2011, including the entirety of section 3.3.3, does not use electricity, and is not connected to a pressurized water distribution system for distribution of potable water.

(c) "Rainwater" means precipitation on any public or private parcel that has not entered an offsite storm drain system or channel, a flood control channel, or any other stream channel, and has not previously been put to beneficial use.

(d) "Rainwater capture system" means a facility designed to capture, retain, and store rainwater flowing off a building, parking lot, or any other manmade, impervious surface, for subsequent onsite use.

(e) "Stormwater" means temporary surface water runoff and drainage generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of "stormwater" in Section 122.26 of Title 40 of the Code of Federal Regulations.

10574. (a) Any residential, commercial, or governmental landowner may install, maintain, and operate any of the following systems:

(1) A rain barrel system, if the system is used only to supply water for outdoor, nonpotable uses and is used in compliance with all manufacturer instructions.

(2) A rainwater capture system for subsequent outdoor nonpotable use or infiltration into groundwater.

(3) A rainwater capture system for subsequent indoor nonpotable use, if ~~both of the following conditions are met:~~

~~(A) The~~ *the* system complies with the California Building Standards Code.

~~(B) The applicable local permitting authority has issued a permit for the system before January 1, 2017.~~

(b) *(1)* A system authorized pursuant to subdivision (a) may only be used on developed or developing lands for the capture and use of rainwater on the landowner's property ~~except where the captured rainwater would otherwise directly flow to a body of saltwater through a constructed conveyance and treatment system~~.

(2) A local government entity that captures rainwater that otherwise would be conveyed by pipes and other drainage features through the stormwater system of that local government entity and discharged directly to a body of saltwater shall not be subject to paragraph (1).

(c) A rainwater capture system that is a part of, or attached to, a structure regulated by the California Building Standards Code shall be installed and used consistent with applicable requirements of the California Building Standards Code.

(d) (1) Except as provided in paragraph (3), if a local agency has a program to promote rainwater capture or stormwater capture and use, a landowner installing, maintaining, or operating a rainwater capture system pursuant to this section shall comply with applicable requirements of the program, including, but not limited to, a stormwater resource plan adopted pursuant to Part 2.3 (commencing with Section 10560).

(2) Except as provided in paragraph (3), this section shall not be construed to impose a duty on, or impair the authority of, a local agency to establish or implement a program for rainwater capture or stormwater capture in its jurisdiction.

(3) (A) Except as provided in subparagraph (B), a landowner shall not be required to obtain any permit or other authorization from a local public agency as a condition of installing, maintaining, or operating a rain barrel system pursuant to paragraph (1) of subdivision (a).

(B) If installation of a rain barrel system requires disconnection of a downspout from the sewer system, the local public agency may require a permit or authorization for proper disconnection and capping of the sewer connection.

(4) If a local agency chooses to adopt a permitting program for rainwater capture systems and the local agency approves a permit for a rainwater capture system connected to a public water system, as defined in Section 116275 of the Health and Safety Code, the local agency shall notify the operator of the public water system of the permit approval.

(e) A rainwater capture system installed pursuant to this section shall include a method to prevent breeding of mosquitoes.

10575. (a) It is the intent of the Legislature that the use of rainwater for nonpotable uses should not be constrained by standards for drinking water or recycled water in Title 22 of the California Code of Regulations, but shall fully comply with water quality requirements pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000)).

(b) Notwithstanding subdivision (a), this part does not affect any additional state, regional, or local requirements for the protection of groundwater quality from contamination resulting from stormwater drainage.

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