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AMENDED IN SENATE JUNE 6, 2012

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 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. The bill would also require a landowner that installs a rainwater capture system where a permit is not required to notify the operator of the public water system prior to installation, with a specified exception.

(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 or as a water supply for a fountain, pond, or similar decorative water feature in a landscaping project. 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:

- 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

1 or facilities for work to be performed and supervised by that
2 contractor.

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

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

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

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

27 (4) A rainwater capture system, as defined in Section 10573 of
28 the Water Code, used exclusively for landscape irrigation or as a
29 water supply for a fountain, pond, or similar decorative water
30 feature in a landscaping project.

31 (c) (1) Work performed in connection with a landscape project
32 specified in paragraph (2), (3), or (4) of subdivision (b) that is
33 outside of the field and scope of activities authorized to be
34 performed under the Landscape Contractor (C-27) classification,
35 as set forth in Section 832.27 of Title 16 of the California Code
36 of Regulations, may only be performed by a landscape contractor
37 if the landscape contractor also either holds an appropriate specialty
38 license classification to perform the work or is licensed as a General
39 Building contractor. If the landscape contractor neither holds an
40 appropriate specialty license classification to perform the work

1 nor is licensed as a General Building contractor, the work shall be
2 performed by a Specialty contractor holding the appropriate license
3 classification or by a General Building contractor performing work
4 in accordance with the requirements of subdivision (b) of Section
5 7057.

6 (2) Notwithstanding paragraph (1), a landscape contractor
7 performing work under the Landscape Contractor (C-27)
8 classification, as set forth in Section 832.27 of Title 16 of the
9 California Code of Regulations, may design and install all exterior
10 components of a rainwater capture system, as defined in Section
11 10573 of the Water Code, that are not a part of, or attached to, a
12 structure.

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

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

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

21

22 PART 2.4. RAINWATER CAPTURE ACT OF 2012

23

24 10570. This part shall be known, and may be cited, as the
25 Rainwater Capture Act of 2012.

26 10571. The Legislature finds and declares all of the following:

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

36 (b) Historical patterns of precipitation are predicted to change,
37 with two major implications for water supply. First, an increasing
38 amount of California’s water is predicted to fall not as snow in the
39 mountains, but as rain in other areas of the state. This will likely
40 have a profound and transforming effect on California’s hydrologic

1 cycle and much of that water will no longer be captured by
2 California’s reservoirs, many of which are located to capture
3 snowmelt. Second, runoff resulting from snowmelt is predicted to
4 occur progressively earlier in the year, and reservoirs operated for
5 flood control purposes must release water early in the season to
6 protect against later storms, thereby reducing the amount of early
7 season snowmelt that can be stored.

8 (c) Rainwater and stormwater, captured and properly managed,
9 can contribute significantly to local water supplies by infiltrating
10 and recharging groundwater aquifers, thereby increasing available
11 supplies of drinking water. In addition, the onsite capture, storage,
12 and use of rainwater and stormwater for nonpotable uses
13 significantly reduces demand for potable water, contributing to
14 the statutory objective of a 20-percent reduction in urban per capita
15 water use in California by December 31, 2020.

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

20 10572. Nothing in this part shall be construed to do any of the
21 following:

22 (a) Alter or impair any existing rights.

23 (b) Change existing water rights law.

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

28 (d) Impair the authority of the California Building Standards
29 Commission to adopt and implement building standards for
30 rainwater capture systems pursuant to existing law.

31 (e) Affect use of rainwater on agricultural lands.

32 (f) Impair the authority of a water supplier pursuant to
33 Subchapter 1 of Chapter 5 of Division 1 of Title 17 of the
34 California Code of Regulations.

35 10573. Solely for the purposes of this part, and unless the
36 context otherwise requires, the following definitions govern the
37 construction of this part:

38 (a) “Developed or developing lands” means lands that have one
39 or more of the characteristics described in subparagraphs (A) to

1 (C), inclusive, of paragraph (4) of subdivision (b) of Section
2 56375.3 of the Government Code.

3 (b) “Rain barrel system” is a type of rainwater capture system
4 that does not use electricity or a water pump and is not *connected*
5 *to or* reliant on a ~~pressurized water distribution system for~~
6 ~~distribution of~~ potable water *system*.

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

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

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

20 10574. (a) Any residential, commercial, or governmental
21 landowner may install, maintain, and operate any of the following
22 systems:

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

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

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

30 (A) The system complies with the California Building Standards
31 Code.

32 (B) The system includes supplemental filtration, a disinfection
33 device, or other process or device that performs an equivalent
34 function, as determined by the local agency having jurisdiction.

35 (C) The local agency with jurisdiction over the enforcement of
36 building standards consults with the local department of public
37 health regarding public health impacts *before issuing the first*
38 *indoor-use permit or establishing a rainwater capture program*,
39 agrees to issue a permit for the system, and inspects the installation
40 of the system before the system is operated, and the landowner

1 complies with the conditions and requirements imposed by the
2 permit. *The local department of public health may impose*
3 *conditions on permits for indoor use of rainwater.*

4 (D) The rainwater is used for nonpotable uses, including toilets,
5 urinals, clothes washing machines, or heating, ventilation, and
6 air-conditioning systems, or other uses allowed by the California
7 Building Standards Code.

8 (b) (1) A system authorized pursuant to subdivision (a) may
9 only be used on developed or developing lands for the capture and
10 use of rainwater on the landowner's property.

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

16 (2) *Notwithstanding paragraph (1), a city, county, or city and*
17 *county may authorize the capture and conveyance of rainwater*
18 *off of a landowner's property for use on a different landowner's*
19 *property if all of the following conditions are met:*

20 (A) *The rainwater is used solely within the jurisdiction of the*
21 *city, county, or city and county that is authorizing the capture and*
22 *conveyance of the rainwater.*

23 (B) *The rainwater is provided at no cost to the user of the*
24 *rainwater.*

25 (C) *The rainwater is treated and used in accordance with*
26 *applicable provisions of the California Building Standards Code.*

27 (D) *The rainwater would otherwise be conveyed by constructed*
28 *drainage features through a stormwater or combined sewer system*
29 *and discharged directly into a body of saltwater.*

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

34 (d) (1) Except as provided in paragraph (3), if a local agency
35 has a program to promote rainwater capture or stormwater capture
36 and use, a landowner installing, maintaining, or operating a
37 rainwater capture system pursuant to this section shall comply
38 with applicable requirements of the program, including, but not
39 limited to, a stormwater resource plan adopted pursuant to Part
40 2.3 (commencing with Section 10560).

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

5 (3) (A) Except as provided in subparagraph (B), a landowner
 6 shall not be required to obtain any permit or other authorization
 7 from a local public agency as a condition of installing, maintaining,
 8 or operating a rain barrel system ~~pursuant to paragraph (1) of~~
 9 ~~subdivision (a), provided the system complies with the California~~
 10 *Building and Standards Code provisions for a permit exemption.*

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

15 (4) (A) If a local agency chooses to adopt a permitting program
 16 for rainwater capture systems and the local agency approves a
 17 permit for a rainwater capture system, the local agency shall notify
 18 the operator of the public water system of the permit approval.

19 (B) (i) Except as provided in clause (ii), if a landowner installs
 20 a rainwater capture system where a permit is not required, the
 21 landowner shall notify the operator of the public water system
 22 prior to installation.

23 (ii) Notice to the operator of the public water system is not
 24 required if a landowner installs a rain barrel system that uses a
 25 cistern of less than 360 gallons.

26 (e) If the rainwater capture system is connected to ~~receive water~~
 27 ~~from a potable source~~ *any potable water system*, the *rainwater*
 28 *capture* system shall be equipped with a device that is adequate
 29 to prevent backflow from the rainwater capture system into the
 30 property's potable water supply system or into the public potable
 31 water distribution system that supplies potable water to the
 32 property. The backflow prevention device *and its installation* shall
 33 comply with applicable provisions of the California Building
 34 Standards Code.

35 (f) A rainwater capture system installed pursuant to this section
 36 shall be designed, constructed, and maintained in such a way as
 37 to exclude mosquitoes and not permit mosquito production.

38 10575. (a) It is the intent of the Legislature that the use of
 39 rainwater for nonpotable uses should not be constrained by
 40 standards for drinking water or recycled water in Title 22 of the

1 California Code of Regulations, but shall fully comply with water
2 quality requirements pursuant to the Porter-Cologne Water Quality
3 Control Act (Division 7 (commencing with Section 13000)).
4 (b) Notwithstanding subdivision (a), this part does not affect
5 any additional state, regional, or local requirements for the
6 protection of groundwater quality from contamination resulting
7 from stormwater drainage.

O