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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, to add Section 18941.9 to the Health and Safety 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~~ *as specified, if certain requirements are met*. The ~~bill act~~ would require a local agency to provide notification to the operator of a public water system, as defined, ~~if when the local agency chooses to adopt a permitting program for rainwater capture systems and approves~~ *issues* a permit for a rainwater capture system connected to the public water system. The ~~bill act, except as specified,~~ 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~~. *The bill would prohibit the California Building Standards Commission from adopting any regulation relating to a water quality standard for the indoor use of rainwater pursuant to the act without the concurrence of the State Department of Public Health.*

(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
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 10573 of
32 the Water Code, used exclusively for landscape irrigation or as a
33 water supply for a fountain, pond, or similar decorative water
34 feature in a landscaping project.

35 (c) (1) Work performed in connection with a landscape project
36 specified in paragraph (2), (3), or (4) of subdivision (b) that is
37 outside of the field and scope of activities authorized to be
38 performed under the Landscape Contractor (C-27) classification,

1 as set forth in Section 832.27 of Title 16 of the California Code
 2 of Regulations, may only be performed by a landscape contractor
 3 if the landscape contractor also either holds an appropriate specialty
 4 license classification to perform the work or is licensed as a General
 5 Building contractor. If the landscape contractor neither holds an
 6 appropriate specialty license classification to perform the work
 7 nor is licensed as a General Building contractor, the work shall be
 8 performed by a Specialty contractor holding the appropriate license
 9 classification or by a General Building contractor performing work
 10 in accordance with the requirements of subdivision (b) of Section
 11 7057.

12 (2) Notwithstanding paragraph (1), a landscape contractor
 13 performing work under the Landscape Contractor (C-27)
 14 classification, as set forth in Section 832.27 of Title 16 of the
 15 California Code of Regulations, may design and install all exterior
 16 components of a rainwater capture system, as defined in Section
 17 10573 of the Water Code, that are not a part of, or attached to, a
 18 structure.

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

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

25 *SEC. 2. Section 18941.9 is added to the Health and Safety*
 26 *Code, to read:*

27 *18941.9. The commission shall not adopt any regulation*
 28 *relating to a water quality standard for the indoor use of rainwater*
 29 *pursuant to Part 2.4 (commencing with Section 10570) of Division*
 30 *6 of the Water Code without the concurrence of the State*
 31 *Department of Public Health.*

32 ~~SEC. 2.~~

33 *SEC. 3.* Part 2.4 (commencing with Section 10570) is added
 34 to Division 6 of the Water Code, to read:

35

36 **PART 2.4. RAINWATER CAPTURE ACT OF 2012**

37

38 10570. This part shall be known, and may be cited, as the
 39 Rainwater Capture Act of 2012.

40 10571. The Legislature finds and declares all of the following:

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

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

22 (c) Rainwater and stormwater, captured and properly managed,
23 can contribute significantly to local water supplies by infiltrating
24 and recharging groundwater aquifers, thereby increasing available
25 supplies of drinking water. In addition, the onsite capture, storage,
26 and use of rainwater ~~and stormwater~~ for nonpotable uses
27 significantly reduces demand for potable water, contributing to
28 the statutory objective of a 20-percent reduction in urban per capita
29 water use in California by December 31, 2020.

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

34 10572. Nothing in this part shall be construed to do any of the
35 following:

- 36 (a) Alter or impair any existing rights.
- 37 (b) Change existing water rights law.
- 38 (c) Authorize a landscape contractor to engage in or perform
39 activities that require a license pursuant to the Professional

1 Engineers Act (Chapter 7 (commencing with Section 6700) of
2 Division 3 of the Business and Professions Code).

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

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

7 (f) Impair the authority of a water supplier pursuant to
8 Subchapter 1 of Chapter 5 of Division 1 of Title 17 of the
9 California Code of Regulations.

10 10573. Solely for the purposes of this part, and unless the
11 context otherwise requires, the following definitions govern the
12 construction of this part:

13 (a) “Developed or developing lands” means lands that have one
14 or more of the characteristics described in subparagraphs (A) to
15 (C), inclusive, of paragraph (4) of subdivision (b) of Section
16 56375.3 of the Government Code.

17 (b) “Rain barrel system” is a type of rainwater capture system
18 that does not use electricity or a water pump and is not connected
19 to or reliant on a potable water system.

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

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

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

33 10574. (a) Any residential, commercial, or governmental
34 landowner may install, maintain, and operate any of the following
35 systems:

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

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

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

3 (A) The system complies with the California Building Standards
4 Code.

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

8 ~~(C) The local agency with jurisdiction over the enforcement of~~
9 ~~building standards consults with the local department of public~~
10 ~~health regarding public health impacts before issuing the first~~
11 ~~indoor-use permit or establishing a rainwater capture program,~~
12 ~~agrees to issue a permit for the system, and inspects the installation~~
13 ~~of the system before the system is operated, and the landowner~~
14 ~~complies with the conditions and requirements imposed by the~~
15 ~~permit. The local department of public health may impose~~
16 ~~conditions on permits for indoor use of rainwater.~~

17 *(C) (i) The local agency with jurisdiction over the enforcement*
18 *of building standards issues a permit for the system, and inspects*
19 *the installation of the system before the system is operated, and*
20 *the landowner complies with the conditions and requirements*
21 *imposed by the permit.*

22 *(ii) The local agency with jurisdiction over the enforcement of*
23 *building standards shall consult with the local department of public*
24 *health before issuing its first permit for indoor use of rainwater.*

25 *(iii) The local department of public health may impose*
26 *conditions on permits for indoor use of rainwater.*

27 (D) The rainwater is used for nonpotable uses, including toilets,
28 urinals, clothes washing machines, or heating, ventilation, and
29 air-conditioning systems, ~~or other uses allowed by the California~~
30 ~~Building Standards Code.~~

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

34 (2) Notwithstanding paragraph (1), a city, county, or city and
35 county may authorize the ~~capture and conveyance of rainwater~~
36 ~~captured by a rainwater capture system~~ off of a landowner's
37 property for use on a different landowner's property if all of the
38 following conditions are met:

1 (A) The rainwater is used solely within the jurisdiction of the
2 city, county, or city and county that is authorizing the capture and
3 conveyance of the rainwater.

4 (B) The rainwater is provided at no cost to the user of the
5 rainwater.

6 ~~(C) The rainwater is treated and used in accordance with
7 applicable provisions of the California Building Standards Code.~~

8 (C) *The rainwater is used only for outdoor nonpotable uses.*

9 (D) *The rainwater is treated and used in a manner approved
10 by the State Department of Public Health and the local department
11 of public health, and is in accordance with the California Building
12 Standards Code.*

13 (E) *All pipes designed to carry rainwater are colored and
14 marked in a fashion that clearly distinguishes rainwater pipes
15 from potable water pipes in accordance with the California
16 Building Standards Code.*

17 (F) *All points of use are clearly marked to indicate the use and
18 source of nonpotable rainwater, in accordance with the California
19 Building Standards Code.*

20 ~~(D)~~

21 (G) The rainwater would otherwise be conveyed by constructed
22 drainage features through a stormwater or combined sewer system
23 and discharged directly into a body of saltwater.

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

28 (d) (1) Except as provided in paragraph (3), if a local agency
29 has a program to promote rainwater capture or stormwater capture
30 and use, a landowner installing, maintaining, or operating a
31 rainwater capture system pursuant to this section, *in addition to*
32 *complying with all federal and state law and regulations*, shall
33 comply with applicable requirements of the program, including,
34 but not limited to, a stormwater resource plan adopted pursuant to
35 Part 2.3 (commencing with Section 10560).

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

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

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

11 (4) (A) ~~If~~ ~~When~~ a local agency chooses to adopt a permitting
12 ~~program for rainwater capture systems and the local agency~~
13 ~~approves~~ *issues* a permit for a rainwater capture system, the local
14 agency shall notify the operator of the public water system of the
15 permit approval.

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

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

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

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

34 10575. (a) It is the intent of the Legislature that the use of
35 rainwater for nonpotable uses should not be constrained by
36 standards for drinking water ~~or recycled water~~ in Title 22 of the
37 California Code of Regulations, but shall fully comply with water
38 quality requirements pursuant to the Porter-Cologne Water Quality
39 Control Act (Division 7 (commencing with Section 13000)).

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

O