AMENDED IN SENATE APRIL 9, 2014

SENATE BILL No. 985

Introduced by Senator Pavley

February 11, 2014

An act to amend Sections ~~10561 and~~ *10561,* 10562*, and 10573* of*, and to add Section 10561.5 to,* the Water Code, relating to stormwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 985, as amended, Pavley. Stormwater resource planning.

Existing law, the Stormwater Resource Planning Act, authorizes a city, county, or special district, to develop a stormwater resource plan that meets certain standards.

This bill would require a stormwater resource plan to identify ~~opportunities to use existing publicly owned lands to capture and reuse stormwater~~ *and prioritize stormwater and dry weather runoff capture projects for implementation in a prescribed quantitative manner and to prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects. This bill would eliminate the requirement that a stormwater resource plan be consistent with any applicable integrated regional water management plan. This bill would require an entity developing a stormwater resource plan to identify in the plan opportunities to use existing publicly owned lands and easements to capture and reuse stormwater. This bill would define dry weather runoff and stormwater for the purposes of the act and conform the definition of stormwater in the Rainwater Capture Act of 2012*.

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 10561 of the Water Code is amended to read:

10561. The Legislature hereby finds and declares all of the following:

(a) In many parts of the state stormwater ~~is an underutilized source~~ *and dry weather runoff are underutilized sources* of surface water and groundwater supplies. Instead of being viewed as a resource, ~~it is~~ *they are* often seen *as a problem that must be moved to the ocean as quickly as possible or* as a source of contamination, contributing to a loss of usable water supplies and the pollution and impairment of rivers, lakes, streams, and coastal waters.

(b) Improved management of stormwater *and dry weather runoff* can improve water quality*, reduce localized flooding,* and increase water supplies for beneficial uses and the environment.

(c) Most of California's current stormwater drainage systems are designed to capture and convey water away from people and property rather than capturing that water for beneficial uses.

(d) Historical patterns of precipitation are predicted to change and 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 snow melt.

(e) ~~Stormwater, properly~~ *When properly designed and* managed, *the capture and use of stormwater and dry weather runoff* can contribute significantly to local water supplies through onsite storage and reuse, or letting it ~~percolate~~ *infiltrate* into the ground to recharge groundwater, *either onsite or at regional facilities*, thereby increasing available supplies of drinking water.

(f) New developments and redevelopments should be designed to be consistent with low-impact development principles to improve the retention, reuse, and ~~percolation of stormwater onsite~~ *infiltration of stormwater and dry weather runoff onsite or at regional facilities*.

(g) Stormwater *and dry weather runoff* can be managed to achieve environmental and societal benefits such as wetland

creation, riverside habitats, instream flows, and an increase in urban green space.

(h) Stormwater *and dry weather runoff* management through multiobjective projects can achieve additional benefits, including augmenting recreation opportunities for communities, increased tree canopy, reduced urban heat island effect, and improved air quality.

(i) The capture and use of stormwater and dry weather runoff is not only one of the most cost-effective sources of new water supplies, it is a supply that can often be provided using significantly less energy than other sources of new water supplies.

SEC. 2. Section 10561.5 is added to the Water Code, to read:

10561.5. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Dry weather runoff" means surface waterflow produced by nonstormwater resulting from residential, commercial, and industrial activities involving the use of potable and nonpotable water.

(b) "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.

~~SEC. 2.~~

SEC. 3. Section 10562 of the Water Code is amended to read:

10562. (a) A city, county, or special district, either individually or jointly, may develop a stormwater resource plan pursuant to this part.

(b) Stormwater resource plans shall:

(1) Be developed on a watershed basis.

(2) Identify and prioritize stormwater and dry weather runoff capture projects for implementation in a quantitative manner, using a metrics-based and integrated evaluation and analysis of multiple benefits to maximize water supply, water quality, flood management, environmental, and other community benefits within the watershed.

~~(2)~~

(3) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits.

~~(3)~~

(4) Provide for community participation in plan development and implementation.

~~(4)~~

(5) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits.

~~(5)~~

(6) Be consistent with all applicable waste discharge permits.

~~(6) Be consistent with any applicable integrated regional water management plan.~~

(7) Prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects.

(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a "stormwater resource plan." Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document does not meet the standards of this section, a collection of local and regional plans may constitute a functional equivalent.

(d) ~~Stormwater~~ *An entity developing a stormwater* resource ~~plans~~ *plan* shall identify *in the plan* all of the following:

(1) Opportunities to augment local water supply through groundwater recharge or storage for beneficial reuse of stormwater.

(2) Opportunities for source control for both pollution and stormwater runoff volume, onsite and local infiltration, and reuse of stormwater.

(3) Projects to reestablish natural water drainage treatment and infiltration systems, or mimic natural system functions to the maximum extent feasible.

(4) Opportunities to develop or enhance habitat and open space through stormwater management, including wetlands, riverside habitats, parkways, and parks.

(5) Opportunities to use existing publicly owned lands *and easements*, including, but not limited to, parks, ~~school sites,~~ *public open space, community gardens, farm and agricultural preserves,*

schoolsites, and government office buildings and complexes, to capture and reuse stormwater.

(6) Design criteria and best management practices to prevent stormwater pollution and increase effective stormwater management for new and upgraded infrastructure and residential, commercial, industrial, and public development. These design criteria and best management practices shall accomplish all of the following:

(A) Reduce effective impermeability within a watershed by creating permeable surfaces and directing stormwater to permeable surfaces, retention basins, cisterns, and other storage for beneficial reuse.

(B) Increase water storage for beneficial use through a variety of ~~on-site~~ *onsite* storage techniques.

(C) Increase groundwater supplies through infiltration, where appropriate and feasible.

(D) Support low-impact development for new and upgraded infrastructure and development using low-impact techniques.

(7) Activities that generate or contribute to the pollution of stormwater, or that impair the effective beneficial use of stormwater.

(8) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits. *These projects and programs shall include the development of appropriate decision support tools and the data necessary to use the decision support tools.*

(9) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.

SEC. 4. Section 10573 of the Water Code is amended to read:

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 does not use electricity or a water pump and is not connected to or reliant on a potable water system.

(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 rooftop 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~~ *has the same meaning as defined in Section 10561.5*.

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