

AMENDED IN ASSEMBLY APRIL 5, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2515

Introduced by Assembly Member Weber

February 19, 2016

An act to amend Section 1058.5 of the Water Code, relating to water, add Section 65596.5 to the Government Code, relating to water efficient landscaping.

LEGISLATIVE COUNSEL'S DIGEST

AB 2515, as amended, Weber. ~~State Water Resources Control Board: emergency conservation regulations.~~ *Water Conservation in Landscaping Act: model water efficient landscaping ordinance.*

Existing law, the Water Conservation in Landscaping Act, requires the Department of Water Resources to update its model water-efficient landscape ordinance by regulation and prescribes various requirements for the updated model ordinance.

This bill would require the department, on or before January 1, 2020, and every three years thereafter, to either update the model water-efficient landscaping ordinance or make a finding that an update to the model water-efficient landscaping ordinance at that time is not a useful or effective means to improve either the efficiency of landscape water use or the administration of the ordinance. The bill would additionally require the department, on or before June 30 2017, to enter into a cooperative agreement with the Building Standards Commission, the Department of Housing and Community Development, and the Division of the State Architect that sets out a timetable and mutual

responsibilities for the coordination of the Department’s model water-efficient landscaping ordinance update process with the triennial revision cycle of the California Green Building Standards Code.

~~Under existing law, emergency regulations of the State Water Resources Control Board are not subject to review by the Office of Administrative Law if the state board adopts findings that the emergency regulations are adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water to promote water recycling or water conservation, and that the emergency regulations are adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years or during a period of a state of emergency based on drought conditions. Under existing law, a person who violates an emergency regulation adopted by the state board pursuant to these provisions is guilty of an infraction punishable by a fine of up to \$500 for each day in which the violation occurs.~~

~~This bill would require that an emergency conservation regulation to conserve water adopted by the board be applicable on a county-by-county basis in order to give specific consideration to the facts and circumstances prevailing within each county.~~

~~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. Section 65596.5 is added to the Government Code,
- 2 to read:
- 3 65596.5. (a) On or before January 1, 2020, and at least every
- 4 three years thereafter, the department, after holding one or more
- 5 public hearings, shall do one of the following:
- 6 (1) Update the model water-efficient landscape ordinance
- 7 adopted pursuant to Chapter 1145 of the Statutes of 1990.
- 8 (2) Make a finding that an update to the model water-efficient
- 9 landscape ordinance at that time is not a useful or effective means
- 10 to improve either the efficiency of landscape water use or the
- 11 administration of the ordinance.
- 12 (b) On or before June 30, 2017, the department shall enter into
- 13 a cooperative agreement with the Building Standards Commission,
- 14 the Department of Housing and Community Development, and the

1 *Division of the State Architect that sets out a timetable and mutual*
2 *responsibilities for the coordination of the department's model*
3 *water-efficient landscape ordinance update process with the*
4 *triennial revision cycle of the California Green Building Standards*
5 *Code (Part 11 of Title 24 of the California Code of Regulations).*

6 SECTION 1. ~~Section 1058.5 of the Water Code is amended to~~
7 ~~read:~~

8 1058.5. ~~(a) This section applies to any emergency regulation~~
9 ~~adopted by the board for which the board makes both of the~~
10 ~~following findings:~~

11 ~~(1) The emergency regulation is adopted to prevent the waste,~~
12 ~~unreasonable use, unreasonable method of use, or unreasonable~~
13 ~~method of diversion, of water, to promote water recycling or water~~
14 ~~conservation, to require curtailment of diversions when water is~~
15 ~~not available under the diverter's priority of right, or in furtherance~~
16 ~~of any of the foregoing, to require reporting of diversion or use or~~
17 ~~the preparation of monitoring reports.~~

18 ~~(2) The emergency regulation is adopted in response to~~
19 ~~conditions which exist, or are threatened, in a critically dry year~~
20 ~~immediately preceded by two or more consecutive below normal,~~
21 ~~dry, or critically dry years or during a period for which the~~
22 ~~Governor has issued a proclamation of a state of emergency under~~
23 ~~the California Emergency Services Act (Chapter 7 (commencing~~
24 ~~with Section 8550) of Division 1 of Title 2 of the Government~~
25 ~~Code) based on drought conditions.~~

26 ~~(b) Notwithstanding Sections 11346.1 and 11349.6 of the~~
27 ~~Government Code, any findings of emergency adopted by the~~
28 ~~board, in connection with the adoption of an emergency regulation~~
29 ~~under this section, are not subject to review by the Office of~~
30 ~~Administrative Law.~~

31 ~~(c) An emergency regulation adopted by the board under this~~
32 ~~section may remain in effect for up to 270 days, as determined by~~
33 ~~the board, and is deemed repealed immediately upon a finding by~~
34 ~~the board that due to changed conditions it is no longer necessary~~
35 ~~for the regulation to remain in effect. An emergency regulation~~
36 ~~adopted by the board under this section may be renewed if the~~
37 ~~board determines that the conditions specified in paragraph (2) of~~
38 ~~subdivision (a) are still in effect.~~

39 ~~(d) In addition to any other applicable civil or criminal penalties,~~
40 ~~any person or entity who violates a regulation adopted by the board~~

1 pursuant to this section is guilty of an infraction punishable by a
2 fine of up to five hundred dollars (\$500) for each day in which the
3 violation occurs.

4 (e) (1) Notwithstanding subdivision (b) of Section 1551,
5 subdivision (d) of Section 1845, and subdivision (f) of Section
6 1846, a civil liability imposed under Chapter 12 (commencing
7 with Section 1825) of Part 2 of Division 2 by the board or a court
8 for a violation of an emergency conservation regulation adopted
9 pursuant to this section shall be deposited, and separately accounted
10 for, in the Water Rights Fund. Funds deposited in accordance with
11 this subdivision shall be available, upon appropriation, for water
12 conservation activities and programs.

13 (2) An emergency conservation regulation to conserve water
14 adopted by the board shall be applicable on a county-by-county
15 basis in order to give specific consideration to the facts and
16 circumstances prevailing within each county.

17 (3) For purposes of this subdivision, an “emergency conservation
18 regulation” means an emergency regulation that requires an end
19 user of water, a water retailer, or a water wholesaler to conserve
20 water or report to the board on water conservation. Water
21 conservation includes restrictions or limitations on particular uses
22 of water or a reduction in the amount of water used or served, but
23 does not include curtailment of diversions when water is not
24 available under the diverter’s priority of right or reporting
25 requirements related to curtailments.