

AMENDED IN ASSEMBLY SEPTEMBER 3, 2015

AMENDED IN SENATE JUNE 2, 2015

**SENATE BILL**

**No. 163**

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**Introduced by Senator Hertzberg**

February 4, 2015

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~~An act to add Section 3000.5 to the Elections Code, relating to elections.~~ *An act to add Section 13557.5 to the Water Code, relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

SB 163, as amended, Hertzberg. ~~Elections: vote by mail ballot.~~  
*Wastewater treatment: recycled water.*

*The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented. Existing law declares that the use of potable domestic water for certain nonpotable uses is a waste or an unreasonable use of water if recycled water is available, as determined by the State Water Resources Control Board, and other requirements are met.*

*Under existing law, the state board and the 9 California regional water quality control boards prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act.*

*This bill would declare that the discharge of treated wastewater from ocean outfalls, except in compliance with the bill's provisions, is a waste and unreasonable use of water in light of the cost-effective opportunities to recycle this water for further beneficial use. This bill,*

*on or before January 1, 2026, would require a wastewater treatment facility discharging through an ocean outfall to achieve at least 50% reuse of the facility's actual annual flow, as defined, for beneficial purposes. This bill, on and after January 1, 2036, would prohibit the discharge of treated wastewater through ocean outfalls, except as backup discharge, as defined, and would require a wastewater treatment facility to achieve 100% reuse of the facility's actual annual flow for beneficial purposes. This bill, on and after January 1, 2022, would authorize a NPDES permit holder subject to these requirements to petition the state board for a partial exemption to the above-described requirements. This bill would require the state board to determine, after notice and opportunity for comment, whether the petition demonstrates that the NPDES permit holder cannot comply with these reuse requirements and would provide that an exemption from these reuse requirements is valid for a period of no more than 5 years, at which point the NPDES permit holder is required to reapply for an exemption or comply with these reuse requirements. This bill would prohibit a NPDES permit holder subject to these provisions from being eligible for state grants or loans if they receive a partial exemption to these reuse requirements, unless the state grant or loan is solely for the purpose of achieving compliance with these reuse requirements.*

*This bill would require a holder of a NPDES permit authorizing the discharge of wastewater through an ocean outfall as of January 1, 2016, to submit, on or before July 1, 2020, a prescribed plan to meet these provisions, directly or by contract, to the executive director of the state board and would require the plan to be updated on or before January 1, 2024. This bill, on or before January 1, 2017, and by January 1 every 5 years thereafter, would require the holder of a NPDES permit authorizing the discharge of wastewater through an ocean outfall to submit a report to the executive director of the state board summarizing the actions accomplished to date and the actions remaining and proposed to meet the requirements of these provisions. This bill would require the state board to submit a report to the Governor and the Legislature on the implementation of these provisions on or before July 1, 2021, and by July 1 every 5 years thereafter.*

~~Existing law requires the vote by mail ballot to be available to any registered voter and requires an application for a vote by mail voter's ballot to be made in writing to the elections official having jurisdiction over the election between certain days before the election.~~

~~This bill would establish, until January 1, 2019, a vote by mail pilot program in the County of Los Angeles for statewide elections. The bill would require, as part of the pilot program, that the county elections official issue a vote by mail ballot to each registered voter for a qualifying election. The bill would also require the elections official, among other things, to engage in voter education efforts to increase voter awareness of the pilot program and to report on the voter turnout for qualifying elections to the Secretary of State and the Legislature on or before December 31, 2018.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

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

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *Severe drought conditions have persisted for the last three*
- 4     *years in California, and 2013 was the state’s driest calendar year*
- 5     *on record.*
- 6     (b) *California’s water supplies have dipped to alarmingly low*
- 7     *levels indicated by the very limited snowpack in the Sierra Nevada*
- 8     *Mountains, declining water levels in the state’s largest water*
- 9     *reservoirs, reduced surface water flows in major river systems,*
- 10    *and historically low groundwater levels. These water supplies*
- 11    *continue to be severely depleted despite a limited amount of winter*
- 12    *precipitation in 2014.*
- 13    (c) *The duration of the drought is unknown, but based on the*
- 14    *projected impact of climate change on California’s snowpack,*
- 15    *extremely dry conditions will likely continue beyond this year and*
- 16    *occur more regularly in the future.*
- 17    (d) *Continuous severe drought conditions present urgent*
- 18    *challenges across the state, including, but not limited to, water*
- 19    *shortages in communities and for agricultural production,*

1 *increased risk of wildfires, degraded habitat for fish and wildlife,*  
2 *and threat of saltwater contamination in large fresh water supplies.*

3 *(e) Water reuse is one of the most efficient and cost-effective*  
4 *ways to improve the drought resilience of California communities.*

5 *(f) The State Water Resources Control Board has established*  
6 *goals of recycling 1,500,000 acre-feet of wastewater by 2020 and*  
7 *2,500,000 acre-feet of wastewater by 2030. However, California*  
8 *is not on track to meet the board's goals.*

9 *(g) The discharge of treated wastewater from ocean outfalls*  
10 *constitutes waste and unreasonable use of water within the*  
11 *meaning of Section 2 of Article X of the California Constitution,*  
12 *in light of the opportunities to recycle this water for further*  
13 *beneficial use.*

14 *(h) By prohibiting ocean discharges from wastewater treatment*  
15 *plants, California could dramatically accelerate the adoption of*  
16 *water recycling and thus increase water supply available for*  
17 *beneficial use.*

18 *(i) Water recycling can reduce California's dependence on*  
19 *diversions from surface rivers and streams that are subject to*  
20 *variable climate and regulatory conditions.*

21 *(j) In addition to water supply benefits, requiring water recycling*  
22 *for further beneficial use eliminates ocean wastewater discharges,*  
23 *decreasing pollutant loadings to ocean waters and improving*  
24 *coastal water quality, thereby benefitting the aquatic environment*  
25 *and local economies that depend on those coastal resources.*

26 *SEC. 2. Section 13557.5 is added to the Water Code, to read:*

27 *13557.5. (a) The Legislature hereby finds and declares that*  
28 *the discharge of treated wastewater from ocean outfalls, except*  
29 *in compliance with the provisions of this section, is a waste and*  
30 *unreasonable use of water within the meaning of Section 2 of*  
31 *Article X of the California Constitution in light of the cost-effective*  
32 *opportunities to recycle this water for further beneficial use,*  
33 *including both potable and nonpotable uses.*

34 *(b) On or before January 1, 2026, each wastewater treatment*  
35 *facility that discharges through an ocean outfall shall achieve at*  
36 *least 50 percent reuse of the facility's actual annual flow for*  
37 *beneficial purposes.*

38 *(c) On and after January 1, 2036:*

39 *(1) A wastewater treatment facility shall not discharge treated*  
40 *wastewater through ocean outfalls, except as a backup discharge.*

1 *A backup discharge may occur only during periods of reduced*  
2 *demand for reclaimed water in the reuse system, such as a period*  
3 *of wet weather.*

4 *(2) Each wastewater treatment facility shall achieve 100 percent*  
5 *reuse of the facility's actual annual flow for further beneficial use.*

6 *(d) (1) A holder of a NPDES permit authorizing the discharge*  
7 *of wastewater through an ocean outfall as of January 1, 2016,*  
8 *shall submit, on or before July 1, 2020, a plan to meet the*  
9 *requirements of this section, directly or by contract, to the executive*  
10 *director of the state board that contains all of the following:*

11 *(A) An identification of all land acquisition and facilities*  
12 *necessary to provide for treatment, transport, and reuse of treated*  
13 *wastewater.*

14 *(B) An analysis of the costs to meet the requirements of this*  
15 *section.*

16 *(C) A financing plan for meeting the requirements of this section,*  
17 *including identifying any actions necessary to implement the*  
18 *financing plan, such as bond issuance or other borrowing,*  
19 *assessments, rate increases, fees, charges, or other financing*  
20 *mechanisms.*

21 *(D) A detailed schedule for the completion of all necessary*  
22 *actions.*

23 *(E) Supporting data and other documentation accompanying*  
24 *the plan.*

25 *(2) On or before January 1, 2024, the plan described in*  
26 *paragraph (1) shall be updated and submitted to the executive*  
27 *director of the state board by the permit holder to include any*  
28 *refinements or changes in the costs, actions, or financing necessary*  
29 *to achieve full recycling of all wastewater and thereby eliminate*  
30 *the ocean outfall discharge in accordance with this section or a*  
31 *written statement that the plan is current and accurate.*

32 *(e) On or before January 1, 2017, and by January 1 every five*  
33 *years thereafter, the holder of a NPDES permit authorizing the*  
34 *discharge of wastewater through an ocean outfall shall submit to*  
35 *the executive director of the state board a report summarizing the*  
36 *actions accomplished to date and the actions remaining and*  
37 *proposed to meet the requirements of this section. The report shall*  
38 *include progress toward meeting the deadlines set forth in*  
39 *subdivisions (b) to (d), inclusive, and specifically include the*  
40 *detailed schedule for, and status of, the following:*

- 1 (1) *Evaluation of reuse and disposal options.*
- 2 (2) *Preparation of preliminary design reports.*
- 3 (3) *Preparation and submission of permit applications.*
- 4 (4) *Construction initiation.*
- 5 (5) *Construction progress milestones.*
- 6 (6) *Construction completion.*
- 7 (7) *Initiation of operation.*
- 8 (8) *Continuing operation and maintenance.*
- 9 (f) (1) *On or before July 1, 2021, and by July 1 every five years*
- 10 *thereafter, the state board shall submit a report to the Governor*
- 11 *and the Legislature on the implementation of this section. The*
- 12 *report shall summarize the progress up to date, including the*
- 13 *increased amount of reclaimed water provided and potable water*
- 14 *offsets achieved, and shall identify any obstacles to continued*
- 15 *progress, including all instances of substantial noncompliance.*
- 16 (2) *A report to be submitted pursuant to paragraph (1) shall be*
- 17 *submitted in compliance with Section 9795 of the Government*
- 18 *Code.*
- 19 (g) (1) *On and after January 1, 2022, a NPDES permitholder*
- 20 *subject to the requirements of this section, may petition the state*
- 21 *board for a partial exemption to the requirements of this section.*
- 22 *The petition shall include the information required in subdivisions*
- 23 *(d) and (e), and shall demonstrate that the NPDES permitholder*
- 24 *cannot comply with the requirements of this section for one of the*
- 25 *following reasons:*
- 26 (A) *The state board has failed to adopt regulations that approve*
- 27 *the indirect potable reuse of wastewater.*
- 28 (B) *Upgrading the wastewater treatment plant to achieve*
- 29 *recycled water standards produces recycled water that costs more*
- 30 *than twice the cost per-acre foot as compared with other new*
- 31 *surface and groundwater supplies.*
- 32 (C) *The wastewater treatment plant has achieved water quality*
- 33 *standards for recycled water, but there is not sufficient demand*
- 34 *for this water within the region.*
- 35 (2) *The state board shall determine, after notice and opportunity*
- 36 *for comment, whether the petition demonstrates that the NPDES*
- 37 *permitholder cannot comply with the requirements of this section*
- 38 *pursuant to paragraph (1). If the state board approves the partial*
- 39 *exemption to the requirements of this section, that exemption shall*
- 40 *be valid for a period of no more than five years, at which point*

1 *the NPDES permit holder shall reapply for an exemption or comply*  
2 *with the requirements of this section.*

3 *(3) A NPDES permit holder subject to the requirements of this*  
4 *section shall not be eligible for state grants or loans if they receive*  
5 *a partial exemption to the requirements of this section pursuant*  
6 *to this subdivision, unless the state grant or loan is solely for the*  
7 *purpose of achieving compliance with the requirements of this*  
8 *section.*

9 *(h) As used in this section:*

10 *(1) "Actual annual flow" means the annual average flow of*  
11 *treated wastewater discharging through a facility's ocean outfall*  
12 *as determined by the state board using monitoring data available*  
13 *for calendar years 2009 to 2014, inclusive.*

14 *(2) "Backup discharge" means a surface water discharge that*  
15 *occurs as part of a functioning reuse system that has been*  
16 *permitted in accordance with the rules of the state board and that*  
17 *provides reclaimed water for irrigation or public access areas,*  
18 *residential properties, edible food crops, sea water barrier*  
19 *injection to protect groundwater resources, groundwater*  
20 *replenishment, industrial cooling, or other acceptable reuse*  
21 *purposes. "Backup discharge" may also include releases to the*  
22 *ocean on an emergency basis, as approved by a regional board,*  
23 *for a duration not to exceed 90 days and only in the quantities as*  
24 *are necessary in the event of a storm or other cause that impedes*  
25 *groundwater replenishment.*

26 ~~SECTION 1. Section 3000.5 is added to the Elections Code,~~  
27 ~~to read:~~

28 ~~3000.5. (a) A vote by mail pilot program shall be established~~  
29 ~~in the County of Los Angeles for any statewide election held~~  
30 ~~between January 1, 2017, and December 31, 2018, inclusive.~~

31 ~~(b) Notwithstanding Section 3001, the elections official for the~~  
32 ~~County of Los Angeles, in conjunction with the Secretary of State,~~  
33 ~~shall issue a vote by mail ballot to each registered voter in that~~  
34 ~~county for any statewide election held during the period specified~~  
35 ~~in subdivision (a).~~

36 ~~(c) Notwithstanding any other law, each of the following shall~~  
37 ~~apply to the vote by mail pilot program with respect to a statewide~~  
38 ~~election held during the period specified in subdivision (a):~~

1     ~~(1) The elections official is authorized to mail the vote by mail~~  
2     ~~ballots together with other election materials issued by the county~~  
3     ~~to reduce overall mailing expenses.~~

4     ~~(2) The elections official shall consider reducing or consolidating~~  
5     ~~precincts in anticipation of a reduction in the number of voters~~  
6     ~~who vote at precinct polling places, subject to the requirements of~~  
7     ~~Sections 12223 and 12241.~~

8     ~~(3) The elections official is deemed to comply with the~~  
9     ~~requirements of Section 14102 if the number of official ballots~~  
10    ~~provided to each precinct is not less than 50 percent of registered~~  
11    ~~voters in the precinct.~~

12    ~~(4) The elections official shall engage in voter education efforts~~  
13    ~~to increase voter awareness of the vote by mail pilot program. As~~  
14    ~~part of the voter education efforts, voters shall be encouraged, if~~  
15    ~~they intend to vote at a polling place, to bring their vote by mail~~  
16    ~~ballot to the polling place to streamline their voting process.~~

17    ~~(5) In addition to any other reporting requirements required by~~  
18    ~~law, the elections official shall report on the voter turnout for the~~  
19    ~~County of Los Angeles for any qualifying statewide election~~  
20    ~~described in subdivision (a) to the Secretary of State and to the~~  
21    ~~Legislature, in the manner provided by Section 9795 of the~~  
22    ~~Government Code, on or before December 31, 2018.~~

23    ~~(d) This section shall remain in effect only until January 1, 2019,~~  
24    ~~and as of that date is repealed, unless a later enacted statute, that~~  
25    ~~is enacted before January 1, 2019, deletes or extends that date.~~

26    ~~SEC. 2. If the Commission on State Mandates determines that~~  
27    ~~this act contains costs mandated by the state, reimbursement to~~  
28    ~~local agencies and school districts for those costs shall be made~~  
29    ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
30    ~~4 of Title 2 of the Government Code.~~