

AMENDED IN SENATE MARCH 30, 2016

SENATE BILL

No. 1173

Introduced by Senator Hertzberg

February 18, 2016

~~An act to amend Section 1101.3 of the Civil Code, relating to water conservation.~~ *An act to amend Sections 1101.1, 1101.2, 1101.3, 1101.5, and 1101.7 of, and to add Sections 1101.55 and 1101.65 to, the Civil Code, and to amend Section 81005 of the Water Code, relating to water conservation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1173, as amended, Hertzberg. Water-conserving plumbing fixtures. *fixtures: CalConserve Water Use Efficiency Revolving Fund.*

Existing law ~~requires the replacement of~~ *includes specified requirements to replace* plumbing fixtures that are not water conserving, defined as “noncompliant plumbing fixtures,” ~~in~~ *to* residential and commercial real property built and available for use on or before January 1, 1994, as specified. Existing law defines “commercial real property,” “multifamily residential real property,” and “water-conserving plumbing fixture” for purposes of these provisions.

~~This bill would amend the definition of specified noncompliant plumbing fixtures to lower water usage thresholds.~~

This bill would apply these requirements, as specified, to commercial real property regardless of when it was built.

Existing law requires on and after January 1, 2014, replacement of noncompliant plumbing fixtures in specified multifamily residential real property and commercial real property. Existing law requires on or before January 1, 2019, replacement of noncompliant fixtures in all multifamily residential real property and commercial real property.

This bill would, for commercial property, instead require, on and after January 1, 2017, the replacement of any noncompliant plumbing fixture or fitting in specified additions, alterations, and improvements to commercial real property and, on or before January 1, 2021, the replacement of any noncompliant plumbing fixture or fitting in all commercial real property in accordance with a specified schedule based on the amount of floor space. The bill would define “noncompliant plumbing fixture” and “water-conserving plumbing fixture” for purposes of these requirements to refer to compliance with the State Energy Conservation and Development Commission standards. The bill would also encourage retail water providers to provide on-bill financing options to customers to assist with funding for water efficiency improvements and would make legislative findings in support of these provisions.

Existing law establishes the CalConserve Water Use Efficiency Revolving Fund and provides that the moneys in the fund are available to the Department of Water Resources, upon appropriation by the Legislature, for the purpose of water use efficiency projects. Existing law requires moneys in the fund to be used for specified purposes including for local agencies, as defined, to provide low-interest loans to customers to finance the installation of onsite improvements to repair or replace, as necessary, cracked or leaking water pipes to conserve water.

This bill would authorize county offices of education and governing boards of school districts to receive moneys from the fund by including those entities in the definition of a local agency.

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

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

- 1 *SECTION 1. Section 1101.1 of the Civil Code is amended to*
- 2 *read:*
- 3 1101.1. The Legislature finds and declares all of the following:
- 4 (a) Adequate water supply reliability for all uses is essential to
- 5 the future economic and environmental health of California.
- 6 ~~(b) Environmentally sound strategies to meet future water supply~~
- 7 ~~and wastewater treatment needs are key to protecting and restoring~~
- 8 ~~aquatic resources in California.~~

1 ~~(e) There is a pressing need to address water supply reliability~~
2 ~~issues raised by growing urban areas.~~

3 ~~(d) Economic analysis by urban water agencies has identified~~
4 ~~urban water conservation as a cost-effective approach to addressing~~
5 ~~water supply needs.~~

6 ~~(e) There are many water conservation practices that produce~~
7 ~~significant energy and other resource savings that should be~~
8 ~~encouraged as a matter of state policy.~~

9 ~~(f) Since the 1991 signing of the “Memorandum of~~
10 ~~Understanding Regarding Urban Water Conservation in~~
11 ~~California,” many urban water and wastewater treatment agencies~~
12 ~~have gained valuable experience that can be applied to produce~~
13 ~~significant statewide savings of water, energy, and associated~~
14 ~~infrastructure costs. This experience indicates a need to regularly~~
15 ~~revise and update water conservation methodologies and practices.~~

16 ~~(b) California is in a severe drought, and in 2014 and 2015 the~~
17 ~~Governor issued executive orders declaring a drought emergency~~
18 ~~and calling for mandatory water conservation.~~

19 ~~(c) In 2015, the State Water Resources Control Board adopted~~
20 ~~emergency regulations calling for a number of water conservation~~
21 ~~measures, including a mandatory water use reduction requirement~~
22 ~~on urban water suppliers.~~

23 ~~(d) The most recent drought has highlighted the state’s water~~
24 ~~reliability challenges and vulnerabilities, and the importance of~~
25 ~~water conservation as a short- and long-term strategy to ensure~~
26 ~~that there are adequate water supplies for the environment and~~
27 ~~people in the state.~~

28 ~~(e) There is a pressing need to encourage the implementation~~
29 ~~of sustainable water conservation efforts and practices that will~~
30 ~~persist after the drought as a matter of state policy.~~

31 ~~(f) There have been many recent advances in water-efficient~~
32 ~~technologies, including advances in the efficiency of indoor water~~
33 ~~plumbing fixtures, such as toilets, faucets, and showerheads.~~

34 ~~(g) To address these concerns, it is the intent of the Legislature~~
35 ~~to require that residential and commercial real property built and~~
36 ~~available for use or occupancy on or before January 1, 1994, be~~
37 ~~equipped with water-conserving plumbing fixtures.~~

38 ~~(h) It is the intent of the Legislature to require that commercial~~
39 ~~real property be equipped with water-conserving plumbing fixtures,~~

1 *and that the retrofitting of water-conserving plumbing fixtures be*
2 *prioritized.*

3 *(i) Commercial real property is responsible for the highest*
4 *number of plumbing fixtures per capita, and retrofitting plumbing*
5 *fixtures to comply with new standards can help save California*
6 *over 40 billion gallons of water per year.*

7 *(j) In addition to commercial real property, there are*
8 *considerable water savings opportunities that can be achieved by*
9 *assisting California's public schools with retrofitting old and less*
10 *efficient plumbing and irrigation devices. California's public*
11 *schools have a large number of plumbing and irrigation devices*
12 *and fixtures and often lack the financial ability to retrofit them to*
13 *make them more water efficient. Retrofitting just plumbing fixtures*
14 *in schools has the potential to save over six billion gallons of water*
15 *per year.*

16 *(k) The CalConserve Water Use Efficiency Revolving Fund*
17 *established pursuant to Section 81020 of the Water Code was*
18 *created to provide low-interest loans and grants to local agencies*
19 *for water efficiency projects; however, it does not include public*
20 *schools in the types of public agencies that could participate in*
21 *the fund.*

22 *(l) It is the intent of the Legislature to add public schools to the*
23 *list of public agencies that are authorized to participate in the*
24 *CalConserve Water Use Efficiency Revolving Fund.*

25 ~~(h)~~

26 *(m) It is further the intent of the Legislature that retail water*
27 *suppliers are encouraged to provide incentives, financing*
28 *mechanisms, and funding to assist property owners and schools*
29 *with ~~these retrofit obligations~~. retrofits and upgrades, as well as*
30 *to provide customers with information regarding private financing*
31 *opportunities, such as on-bill financing.*

32 *(n) It is further the intent of the Legislature to encourage*
33 *financial institutions to provide on-bill financing opportunities to*
34 *facilitate the financing of retrofits and upgrades.*

35 *SEC. 2. Section 1101.2 of the Civil Code is amended to read:*

36 *1101.2. Except as provided in Section 1101.7, this article shall*
37 *apply to residential ~~and commercial~~ real property built and*
38 *available for use on or before January 1, ~~1994~~. 1994, and*
39 *commercial real property.*

40 *SEC. 3. Section 1101.3 of the Civil Code is amended to read:*

1 1101.3. For the purposes of this article:

2 (a) “Commercial real property” means any real property that is
3 improved with, or consisting of, a building that is intended for
4 commercial use, including hotels and motels, that is not a
5 single-family residential real property or a multifamily residential
6 real property.

7 (b) “Multifamily residential real property” means any real
8 property that is improved with, or consisting of, a building
9 containing more than one unit that is intended for human habitation,
10 or any mixed residential-commercial buildings or portions thereof
11 that are intended for human habitation. Multifamily residential
12 real property includes residential hotels but does not include hotels
13 and motels that are not residential hotels.

14 (c) ~~“Noncompliant—~~*Except as provided by Section 1101.55,*
15 *“noncompliant plumbing fixture”* means any of the following:

16 (1) Any toilet manufactured to use more than 1.6 gallons of
17 water per flush.

18 (2) Any urinal manufactured to use more than one gallon of
19 water per flush.

20 (3) Any showerhead manufactured to have a flow capacity of
21 more than 2.5 gallons of water per minute.

22 (4) Any interior faucet that emits more than 2.2 gallons of water
23 per minute.

24 (d) “Single-family residential real property” means any real
25 property that is improved with, or consisting of, a building
26 containing not more than one unit that is intended for human
27 habitation.

28 (e) ~~“Water-conserving—~~*Except as provided by Section 1101.55,*
29 *“water-conserving plumbing fixture”* means any fixture that is in
30 compliance with current building standards applicable to a newly
31 constructed real property of the same type.

32 (f) “Sale or transfer” means the sale or transfer of an entire real
33 property estate or the fee interest in that real property estate and
34 does not include the sale or transfer of a partial interest, including
35 a leasehold.

36 *SEC. 4. Section 1101.5 of the Civil Code is amended to read:*

37 1101.5. (a) On or before January 1, 2019, all noncompliant
38 plumbing fixtures in any multifamily residential real property ~~and~~
39 ~~in any commercial real property~~ shall be replaced with
40 water-conserving plumbing fixtures.

1 (b) An owner or the owner’s agent may enter the owner’s
2 property for the purpose of installing, repairing, testing, and
3 maintaining water-conserving plumbing fixtures required by this
4 section, consistent with notice requirements of Section 1954.

5 (c) On and after January 1, 2019, the water-conserving plumbing
6 fixtures required by this section shall be operating at the
7 manufacturer’s rated water consumption at the time that the tenant
8 takes possession. A tenant shall be responsible for notifying the
9 owner or owner’s agent if the tenant becomes aware that a
10 water-conserving plumbing fixture within his or her unit is not
11 operating at the manufacturer’s rated water consumption. The
12 owner or owner’s agent shall correct an inoperability in a
13 water-conserving plumbing fixture upon notice by the tenant or if
14 detected by the owner or the owner’s agent.

15 (d) (1) On and after January 1, 2014, all noncompliant plumbing
16 fixtures in any multifamily residential real property ~~and any~~
17 ~~commercial real property~~ shall be replaced with water-conserving
18 plumbing fixtures in the following circumstances:

19 (A) For building additions in which the sum of concurrent
20 building permits by the same permit applicant would increase the
21 floor area of the space in a building by more than 10 percent, the
22 building permit applicant shall replace all noncompliant plumbing
23 fixtures in the building.

24 (B) For building alterations or improvements in which the total
25 construction cost estimated in the building permit is greater than
26 one hundred fifty thousand dollars (\$150,000), the building permit
27 applicant shall replace all noncompliant plumbing fixtures that
28 service the specific area of the improvement.

29 (C) Notwithstanding subparagraph (A) or (B), for any alterations
30 or improvements to a room in a building that require a building
31 permit and that room contains any noncompliant plumbing fixtures,
32 the building permit applicant shall replace all noncompliant
33 plumbing fixtures in that room.

34 (2) Replacement of all noncompliant plumbing fixtures with
35 water-conserving plumbing fixtures, as described in paragraph (1),
36 shall be a condition for issuance of a certificate of final completion
37 and occupancy or final permit approval by the local building
38 department.

39 (e) On and after January 1, 2019, a seller or transferor of
40 multifamily residential real property ~~or of commercial real property~~

1 shall disclose to the prospective purchaser or transferee, in writing,
2 the requirements of subdivision (a) and whether the property
3 includes any noncompliant plumbing fixtures. This disclosure may
4 be included in other transactional documents.

5 *SEC. 5. Section 1101.55 is added to the Civil Code, immediately*
6 *following Section 1101.5, to read:*

7 *1101.55. (a) Notwithstanding Section 1101.3, for purposes of*
8 *this section the following definitions shall apply:*

9 *(1) “Noncompliant plumbing fixture” means any fixture or*
10 *fitting that is not in compliance with the State Energy Conservation*
11 *and Development Commission Appliance Efficiency Regulations*
12 *(Article 4 (commencing with Section 1601) of Chapter 4 of Division*
13 *2 of Title 20 of the California Code of Regulations) for toilets,*
14 *urinals, and faucets.*

15 *(2) “Water-conserving plumbing fixture” means any fixture or*
16 *fitting that is in compliance with the State Energy Conservation*
17 *and Development Commission Appliance Efficiency Regulations*
18 *(Article 4 (commencing with Section 1601) of Chapter 4 of Division*
19 *2 of Title 20 of the California Code of Regulations) for toilets,*
20 *urinals, and faucets.*

21 *(b) On or before January 1, 2021, all noncompliant plumbing*
22 *fixtures in any commercial real property shall be replaced with*
23 *water-conserving plumbing fixtures.*

24 *(c) An owner or the owner’s agent may enter the owner’s*
25 *property for the purpose of installing, repairing, testing, and*
26 *maintaining water-conserving plumbing fixtures required by this*
27 *section, consistent with notice requirements of Section 1954.*

28 *(d) On and after January 1, 2021, the water-conserving*
29 *plumbing fixtures required by this article shall be operating at the*
30 *manufacturer’s rated water consumption at the time that the tenant*
31 *takes possession. A tenant shall be responsible for notifying the*
32 *owner or owner’s agent if the tenant becomes aware that a*
33 *water-conserving plumbing fixture within his or her unit is not*
34 *operating at the manufacturer’s rated water consumption. The*
35 *owner or owner’s agent shall correct an inoperability in a*
36 *water-conserving plumbing fixture upon notice by the tenant or if*
37 *detected by the owner or the owner’s agent.*

38 *(e) (1) On and after January 1, 2017, all noncompliant*
39 *plumbing fixtures in any commercial real property shall be*

1 replaced with water-conserving plumbing fixtures in the following
2 circumstances:

3 (A) For building additions in which the sum of concurrent
4 building permits by the same permit applicant would increase the
5 floor area of the space in a building by more than 10 percent, the
6 building permit applicant shall replace all noncompliant plumbing
7 fixtures in the building.

8 (B) For building alterations or improvements in which the total
9 construction cost estimated in the building permit is greater than
10 one hundred fifty thousand dollars (\$150,000), the building permit
11 applicant shall replace all noncompliant plumbing fixtures that
12 service the specific area of the improvement.

13 (C) Notwithstanding subparagraph (A) or (B), for any
14 alterations or improvements to a room in a building that require
15 a building permit and that room contains any noncompliant
16 plumbing fixtures, the building permit applicant shall replace all
17 noncompliant plumbing fixtures in that room.

18 (2) Replacement of all noncompliant plumbing fixtures with
19 water-conserving plumbing fixtures, as described in paragraph
20 (1), shall be a condition for issuance of a certificate of final
21 completion and occupancy or final permit approval by the local
22 building department.

23 (f) In addition to the other requirements in this section, all
24 noncompliant plumbing fixtures in any commercial real property
25 shall be replaced with water-conserving plumbing fixtures as
26 follows:

27 (1) For commercial real property with floor area of more than
28 50,000 square feet by January 1, 2018.

29 (2) For commercial real property with floor area of between
30 25,000 and 50,000 square feet by January 1, 2019.

31 (3) For commercial real property with floor area of between
32 10,000 and 25,000 square feet by January 1, 2020.

33 (4) For commercial real property with floor area of less than
34 10,000 square feet by January 1, 2021.

35 (g) Notwithstanding anything to the contrary, this section shall
36 not require the replacement of a noncompliant plumbing fixture
37 where it can be demonstrated that the fixture meets the definition
38 of a water-conserving plumbing fixture in Section 1101.3 and was
39 installed after January 1, 2010.

1 (h) On and after January 1, 2019, a seller or transferor of
2 commercial real property shall disclose to the prospective
3 purchaser or transferee, in writing, the requirements of subdivision
4 (b) and whether the property includes any noncompliant plumbing
5 fixtures. This disclosure may be included in other transactional
6 documents.

7 SEC. 6. Section 1101.65 is added to the Civil Code, immediately
8 following Section 1101.6, to read:

9 1101.65. (a) Retail water providers are strongly encouraged
10 to provide on-bill financing options to customers to assist with
11 funding for water efficiency improvements.

12 (b) Financial institutions are strongly encouraged to provide
13 water efficiency improvement financing options that allow
14 borrowers to align the repayment term with the cost savings from
15 installing water-efficient devices.

16 (c) Retail water suppliers shall annually provide customers with
17 information regarding available financing options for the
18 installation or retrofitting of plumbing fixtures and irrigation
19 devices. Those financing options may include any local grant funds,
20 rebates, on-bill financing options, or other incentive and assistance
21 programs.

22 SEC. 7. Section 1101.7 of the Civil Code is amended to read:

23 1101.7. This article shall not apply to any of the following:

24 (a) Registered ~~historical~~ historic sites.

25 (b) Real property for which a ~~licensed~~ California state-licensed
26 plumber certifies that, due to the age or configuration of the
27 property or its plumbing, installation of water-conserving plumbing
28 fixtures is not technically feasible.

29 (c) A building for which water service is permanently
30 disconnected.

31 SEC. 8. Section 81005 of the Water Code is amended to read:

32 81005. For purposes of this division, the following terms have
33 the following meanings:

34 (a) “Fund” means the CalConserve Water Use Efficiency
35 Revolving Fund established pursuant to Section 81020.

36 (b) “Local agency” means ~~a~~ either of the following:

37 (1) A city, county, city and county, municipal utility district,
38 community services district, sanitary district, sanitation district,
39 water district as defined in Section 20200, public water system as
40 defined in Section 116275 of the Health and Safety Code, or private

1 water company under the jurisdiction of the Public Utilities
2 Commission.

3 (2) (A) *A county office of education or the governing board of*
4 *a school district.*

5 (B) *For purposes of this division, a customer of a county office*
6 *of education includes any local educational agency located within*
7 *the jurisdiction of the county office of education and a customer*
8 *of the governing board of a school district includes any school*
9 *located within the school district.*

10 (c) “On-bill financing” means a utility-based method for
11 providing low-interest or no-interest financing for water use
12 efficiency improvements through the monthly utility bill.

13 (d) “Technical assistance” means costs incurred for providing
14 advice, training, or other assistance to local agencies, such as the
15 following:

16 (1) Conducting specialized studies to identify water conservation
17 opportunities that meet the intent of Section 81000.

18 (2) Planning of specific remodeling, renovation, repair,
19 replacement, or other projects related to water conservation.

20 (3) Developing a project proposal for funding from the fund.

21 ~~SECTION 1. Section 1101.3 of the Civil Code is amended to~~
22 ~~read:~~

23 ~~1101.3. For the purposes of this article:~~

24 ~~(a) “Commercial real property” means real property that is~~
25 ~~improved with, or consisting of, a building that is intended for~~
26 ~~commercial use, including hotels and motels, that is not a~~
27 ~~single-family residential real property or a multifamily residential~~
28 ~~real property.~~

29 ~~(b) “Multifamily residential real property” means real property~~
30 ~~that is improved with, or consisting of, a building containing more~~
31 ~~than one unit that is intended for human habitation, or any mixed~~
32 ~~residential-commercial buildings or portions thereof that are~~
33 ~~intended for human habitation. Multifamily residential real property~~
34 ~~includes residential hotels but does not include hotels and motels~~
35 ~~that are not residential hotels.~~

36 ~~(c) “Noncompliant plumbing fixture” means any of the~~
37 ~~following:~~

38 ~~(1) Any toilet manufactured to use more than 1.28 gallons of~~
39 ~~water per flush and does not have a waste evacuation score of 350~~

- 1 ~~grams or more, except a toilet designed for a prison or mental~~
- 2 ~~health facility.~~
- 3 ~~(2) Any urinal manufactured to use more than 0.125 gallons of~~
- 4 ~~water per flush, except a urinal designed for a prison or mental~~
- 5 ~~health facility.~~
- 6 ~~(3) Any showerhead manufactured to have a flow capacity of~~
- 7 ~~more than 2.5 gallons of water per minute.~~
- 8 ~~(4) A residential lavatory faucet that emits more than 1.2 gallons~~
- 9 ~~of water per minute.~~
- 10 ~~(5) A kitchen faucet that emits more than 1.8 gallons per minute,~~
- 11 ~~except that the faucet may have the capacity to increase to 2.2~~
- 12 ~~gallons per minute momentarily for filling pots and pans.~~
- 13 ~~(6) A public lavatory faucet that exceeds 0.5 gallons per minute.~~
- 14 ~~(d) “Single-family residential real property” means any real~~
- 15 ~~property that is improved with, or consisting of, a building~~
- 16 ~~containing not more than one unit that is intended for human~~
- 17 ~~habitation.~~
- 18 ~~(e) “Water-conserving plumbing fixture” means any fixture that~~
- 19 ~~is in compliance with current building standards applicable to a~~
- 20 ~~newly constructed real property of the same type.~~
- 21 ~~(f) “Sale or transfer” means the sale or transfer of an entire real~~
- 22 ~~property estate or the fee interest in that real property estate and~~
- 23 ~~does not include the sale or transfer of a partial interest, including~~
- 24 ~~a leasehold.~~