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AMENDED IN SENATE JUNE 18, 2009

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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 49

Introduced by Assembly Members Feuer and Huffman

December 1, 2008

An act to add Part 2.55 (commencing with Section 10608) to, to amend and repeal Section 10631.5 of, and to repeal and add Part 2.8 (commencing with Section 10800) of, Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 49, as amended, Feuer. Water conservation: agricultural water management planning.

(1) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. "Demand management measures" means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December

31, 2015. The bill would require each urban retail water supplier to develop *an* urban water use ~~targets~~ *target* and interim urban water use targets by December 31, 2010, in accordance with specified requirements. The bill would require agricultural water suppliers to implement *efficient* water ~~use efficiency~~ *best* management practices and would impose related reporting requirements on agricultural water suppliers. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would condition eligibility for certain water management grants or loans to urban water suppliers, beginning July 1, 2016, and agricultural water suppliers, beginning July 1, 2013, on the implementation of water conservation requirements established by the bill. The bill would repeal on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loan to an urban water supplier on the implementation of certain water demand management measures.

(2) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would substantially revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and updated on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is ineligible to receive specified state funds if the supplier does not prepare, adopt, and submit the plan in accordance with the requirements established by the bill.

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

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

SECTION 1. Part 2.55 (commencing with Section 10608) is added to Division 6 of the Water Code, to read:

PART 2.55. WATER CONSERVATION

CHAPTER 1. GENERAL DECLARATION AND POLICY

10608. The Legislature finds and declares all of the following:

(a) Water is a public resource that the California Constitution protects against waste and unreasonable use.

(b) Growing population, climate change, and the need to protect and grow California's economy while protecting and restoring our fish and wildlife habitats make it essential that the state manage its water resources as efficiently as possible.

(c) Reduced water use through conservation provides significant energy and environmental benefits, and can help protect water quality, improve streamflows, and reduce greenhouse gas emissions.

(d) The success of state and local water conservation programs to increase efficiency of water use is best determined on the basis of measurable outcomes related to water use or efficiency.

(e) Improvements in technology and management practices offer the potential for increasing water efficiency in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses.

(f) The Governor has called for a 20 percent per capita reduction in urban water use statewide by 2020.

(g) The factors used to formulate water use efficiency targets can vary significantly from location to location based on factors including weather, patterns of urban and suburban development, and past efforts to enhance water use efficiency.

(h) Per capita water use is a valid measure of a water provider's efforts to reduce urban water use within its service area. However, per capita water use may be less useful for measuring relative water use efficiency between different water providers. Differences in weather, historical patterns of urban and suburban development, and density of housing in a particular location need to be

1 considered when assessing per capita water use as a measure of
2 efficiency.

3 10608.4. It is the intent of the Legislature, by the enactment
4 of this part, to do all of the following:

5 (a) Require all water suppliers to increase the efficiency of use
6 of this essential resource.

7 (b) Establish a framework to meet the state targets for urban
8 water conservation identified in this part and called for by the
9 Governor.

10 (c) Measure increased efficiency of urban water use on a per
11 capita basis.

12 (d) Establish a method or methods for urban retail water
13 suppliers to determine targets for achieving increased water use
14 efficiency by the year 2020, in accordance with the Governor's
15 goal of a 20-percent reduction.

16 (e) Establish consistent water use efficiency planning and
17 implementation standards for urban water suppliers and agricultural
18 water suppliers.

19 (f) Promote urban water conservation standards that are
20 consistent with the California Urban Water Conservation Council's
21 adopted best management practices and the requirements for
22 demand management in Section 10631.

23 (g) Establish standards that recognize and provide credit to water
24 suppliers that made substantial capital investments in urban water
25 conservation since the drought of the early 1990s.

26 (h) Recognize and account for the investment of urban retail
27 water suppliers in providing recycled water for beneficial uses.

28 (i) Require implementation of specified best management
29 practices for agricultural water suppliers.

30 (j) Support the economic productivity of California's
31 agricultural, commercial, and industrial sectors.

32 10608.8. (a) This part ~~does~~ *shall* not limit or otherwise affect
33 the application of Section 1011.

34 (b) This part does not limit or otherwise affect the application
35 of Chapter 3.5 (commencing with Section 11340), Chapter 4
36 (commencing with Section 11370), Chapter 4.5 (commencing with
37 Section 11400), and Chapter 5 (commencing with Section 11500)
38 of Part 1 of Division 3 of Title 2 of the Government Code.

39 (c) This part does not require a reduction in the total water used
40 in the agricultural or urban sectors, because other factors such as

1 changes in agricultural economics or population growth may have
2 greater effects on water use. This part does not limit the economic
3 productivity of California’s agricultural, commercial, or industrial
4 sectors.

5
6 CHAPTER 2. DEFINITIONS
7

8 10608.12. Unless the context otherwise requires, the following
9 definitions govern the construction of this part:

10 (a) “Agricultural water supplier” means a water supplier, either
11 publicly or privately owned, providing water to more than 2,000
12 ~~_____ acres of agricultural land, or supplying more than 2,000~~
13 ~~acre-feet of agricultural water annually,~~ excluding recycled water.
14 An agricultural water supplier includes a supplier or contractor for
15 water, regardless of the basis of right, which distributes or sells
16 water for ultimate resale to customers.

17 (b) “Base daily per capita water use” means the as follows:

18 (1) The urban retail water supplier’s estimate of its average
19 gross daily water use per capita, reported in gallons per capita per
20 day and calculated over a continuous 10-year period ending in
21 2004 or later.

22 (2) For an urban retail water supplier that meets at least 10
23 percent of its 2008 metered retail water demand through recycled
24 water that is delivered within the service area of an urban retail
25 water supplier or its urban wholesale water supplier, the urban
26 retail water supplier may extend the calculation described in
27 paragraph (1) up to an additional five years to a maximum of a
28 continuous 15-year period ending in 2004 or later.

29 (3) For the purposes of paragraph (3) of subdivision (b) of
30 Section 10608.20, the urban retail water supplier’s estimate of its
31 average gross daily water use per capita, reported in gallons per
32 capita per day and calculated over a continuous five-year period
33 ending in 2007 or later.

34 (c) “Baseline commercial, industrial, and institutional water
35 use” means an urban retail water supplier’s base daily per capita
36 water use for commercial, industrial, and institutional users.

37 (d) “Commercial water user” means a water user that provides
38 or distributes a product or service.

1 (e) “Compliance daily per capita water use” means the gross
2 daily water use per capita during the final year of the reporting
3 period, reported in gallons per capita per day.

4 (f) “Disadvantaged community” means a community with an
5 annual median household income that is less than 80 percent of
6 the statewide annual median household income.

7 (g) “Gross water use” means the total volume of water, whether
8 treated or untreated, entering the distribution system of an urban
9 retail water supplier, excluding all of the following:

10 (1) Recycled water, *as defined in subdivision (l)*, that is delivered
11 within the service area of an urban retail water supplier or its urban
12 wholesale water supplier.

13 (2) The net volume of water that the urban retail water supplier
14 places into long-term storage.

15 (3) The volume of water the urban retail water supplier conveys
16 for use by another urban water supplier.

17 ~~(4) If the urban retail water supplier elects to exclude agricultural~~
18 ~~water use from its urban water use target, the volume of water~~

19 (4) *The volume of water delivered for agricultural use.*

20 (h) “Industrial water user” means a water user that is primarily
21 a manufacturer or processor of materials as defined by the Standard
22 Industrial Classifications Code numbers 2000 through 3999.

23 (i) “Institutional water user” means a water user dedicated to
24 public service. This includes higher education institutions, schools,
25 courts, churches, hospitals, and government facilities.

26 ~~(j) “Interim urban water use target” means the midpoint between~~
27 ~~the urban retail water supplier’s base daily per capita water use~~
28 ~~and the urban retail water supplier’s urban water use target for~~
29 ~~2020.~~

30 (j) *“Interim urban water use target” means:*

31 (1) *Except as provided in paragraph (2), the midpoint between*
32 *the urban retail water supplier’s base daily per capita water use*
33 *and the urban retail water supplier’s urban water use target for*
34 *2020.*

35 (2) *For the purposes of paragraph (2) of subdivision (b) of*
36 *Section 10608.20, the sum of the following:*

37 (A) *For indoor residential and landscape uses, the midpoint as*
38 *described in paragraph (1).*

1 (B) For commercial, industrial, and institutional uses, a
2 10-percent reduction from the baseline commercial, industrial,
3 and institutional water use.

4 (k) “Locally cost effective” means that the present value of the
5 local benefits of implementing an agricultural best management
6 practice is greater than or equal to the present value of the local
7 cost of implementing that measure.

8 ~~(l) “Recycled water” means recycled water, as defined in~~
9 ~~subdivision (n) of Section 13050. “Recycled water” includes any~~
10 ~~metered recycled water supplies, developed through planned~~
11 ~~investment, treated to a minimum tertiary level, conveyed through~~
12 ~~a distribution system constructed specifically for recycled water,~~
13 ~~and used for indirect potable reuse through groundwater recharge~~
14 ~~or reservoir augmentation.~~

15 (l) “Recycled water” means recycled water, as defined in
16 subdivision (n) of Section 13050, that is used to offset potable
17 demand, including recycled water supplies for indirect potable
18 reuse, that meet the following requirements:

19 (1) For groundwater recharge, water supplies that are all of
20 the following:

21 (A) Metered.

22 (B) Developed through planned investment.

23 (C) Treated to a minimum tertiary level.

24 (2) For spreading basins, water supplies that are all of the
25 following:

26 (A) Delivered within the service area of an urban retail water
27 supplier or its urban wholesale water supplier which helps an
28 urban retail water supplier meet its urban water use target.

29 (B) Metered.

30 (C) Treated to a minimum tertiary level.

31 (3) For reservoir augmentation, water supplies that meet the
32 criteria of subdivision ____ and are conveyed through a
33 distribution system constructed specifically for recycled water.

34 (m) “Reporting period” means the years for which an urban
35 retail water supplier reports compliance with the urban water use
36 targets.

37 (n) “Urban retail water supplier” means a water supplier, either
38 publicly or privately owned, that directly provides municipal water
39 to more than 3,000 end users or that supplies more than 3,000
40 acre-feet of water annually at retail for municipal purposes.

(o) “Urban water use target” means the urban retail water supplier’s targeted future daily per capita water use.

(p) “Urban wholesale water supplier,” either publicly or privately owned, means a water supplier that provides more than 3,000 acre-feet of water annually at wholesale for municipal purposes.

(q) “Water conservation” means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

CHAPTER 3. URBAN WATER SUPPLIERS

10608.16. (a) The state shall achieve a 20-percent reduction in urban per capita water use in California on or before December 31, 2020.

(b) The state shall make incremental progress towards the state target specified in subdivision (a) by reducing per capita water use by at least 10 percent on or before December 31, 2015.

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and interim ~~urban water use targets~~ *an urban water use target* by December 31, 2010. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

(2) It is the intent of the Legislature that the urban water use targets described in subdivision (a) cumulatively result in a 20-percent reduction from the baseline daily per capita water use by 2020.

(b) An urban retail water supplier shall adopt one of the following methods for determining its urban water use target pursuant to subdivision (a):

(1) Eighty percent of the urban retail water supplier’s baseline per capita daily water use.

(2) The per capita daily water use that is estimated using the sum of the following performance standards:

(A) For indoor residential water use, 55 gallons per capita daily water use as a provisional target. Upon completion of the department’s 2016 report to the Legislature pursuant to Section 10608.42, this target may be adjusted.

1 (B) For landscape irrigated through dedicated or residential
2 meters, water efficiency equivalent to the standards of the Model
3 Water Efficient Landscape Ordinance set forth in Chapter 2.7
4 (commencing with Section 490) of Division 2 of Title 23 of the
5 California Code of Regulations, as in effect the later of the year
6 of the landscape's installation or 1992. An urban retail water
7 supplier using this approach shall use satellite imagery, site visits,
8 or other best available technology to develop an accurate estimate
9 of landscaped areas.

10 (C) For commercial, industrial, and institutional uses, a
11 10-percent reduction in water use from the baseline commercial,
12 industrial, and institutional water use by 2015. Upon completion
13 of the task force report described in Section 10608.43, targeted
14 savings for 2020 shall be based on the commercial, industrial, and
15 institutional efficiency standards among the various sectors of
16 water use established by the task force pursuant to Section
17 10608.43. If the task force report is not completed by April 1,
18 2012, the 10-percent targeted reduction in water use shall be
19 extended from 2015 to 2020.

20 ~~(D) For agricultural irrigation use, water efficiency equivalent~~
21 ~~to the standards for landscape areas in the Model Water Efficient~~
22 ~~Landscape Ordinance set forth in Chapter 2.7 (commencing with~~
23 ~~Section 490) of Division 2 of Title 23 of the California Code of~~
24 ~~Regulations, as in effect the later of the year of the landscape's~~
25 ~~installation or 1992. An urban retail water supplier may elect to~~
26 ~~exclude agricultural water use from its urban water use target. If~~
27 ~~the urban retail water supplier elects to exclude agricultural water~~
28 ~~use from its urban water use target and if the urban retail water~~
29 ~~supplier is also an agricultural water supplier, it shall address~~
30 ~~agricultural water use as set forth in Chapter 4 (commencing with~~
31 ~~Section 10608.48).~~

32 (3) For urban water suppliers that were members of the
33 California Urban Water Conservation Council prior to 1994, and
34 whose base daily per capita water use is at or below the applicable
35 state hydrologic region target, as set forth in the state's draft
36 20x2020 Water Conservation Plan (dated April 30, 2009), 95
37 percent of base daily per capita water use. If the service area of an
38 urban water supplier ~~encompasses~~ *includes* more than one
39 hydrologic region, the supplier shall apportion its service area to
40 each region based on population or area. An urban retail water

1 supplier may adopt the criteria in this paragraph for determining
2 its urban water use target only if its base daily per capita water use
3 is at or below the hydrologic region target for each region within
4 its service area.

5 (c) An urban retail water supplier shall include in its urban water
6 management plan required pursuant to Part 2.6 (commencing with
7 Section 10610) due in 2010 the baseline daily per capita water use,
8 urban water use target, interim urban water use target, and
9 compliance daily per capita water use, along with the bases for
10 determining those estimates, including references to supporting
11 data.

12 (d) When calculating per capita values for the purposes of this
13 chapter, an urban retail water supplier shall determine population
14 using federal, state, and local population reports and projections.

15 (e) An urban retail water supplier may update its 2020 urban
16 water use target in its 2015 urban water management plan required
17 pursuant to Part 2.6 (commencing with Section 10610).

18 10608.24. (a) Each urban retail water supplier shall meet its
19 interim urban water use target by December 31, 2015.

20 (b) Each urban retail water supplier shall meet its urban water
21 use target by December 31, 2020.

22 (c) An urban retail water supplier's compliance daily per capita
23 water use shall be the measure of progress toward achievement of
24 its urban water use target.

25 (d) When determining compliance daily per capita water use,
26 an urban retail water supplier may consider weather-normalizing
27 factors, including, but not limited to, any differences in
28 evapotranspiration and rainfall in the baseline period compared to
29 the compliance reporting period. If the urban retail water supplier
30 elects to include weather-normalization factors in its estimate of
31 compliance daily per capita water use, it shall provide the basis
32 for, and data supporting, the weather-normalization factors in the
33 report required by Section 10608.40.

34 10608.26. *The department shall allow for adjustments to the*
35 *compliance daily per capita water use of an urban retail water*
36 *supplier as appropriate. The basis for the adjustments shall*
37 *include, but not be limited to, the following circumstances:*

38 (a) *Substantial changes to commercial or industrial water use*
39 *resulting from increased business output and economic*
40 *development that have occurred during the reporting period.*

(b) *Substantial changes to institutional water use resulting from fire suppression services that have occurred during the reporting period.*

10608.28. (a) An urban retail water supplier may meet its urban water use target within its retail service area, or by any of the following:

(1) Through an urban wholesale water supplier.

(2) Through a regional agency authorized to plan and implement water conservation, including, but not limited to, an agency established under the Bay Area Water Supply and Conservation Agency Act (Division 31 (commencing with Section 81300)).

(3) Through a regional water management group.

(4) By an integrated regional water management funding area.

(5) By hydrologic region.

(6) Through other appropriate geographic scales for which computation methods have been developed by the department.

(b) An urban retail water supplier may meet its urban water use target entirely through efficiency gains in its residential water use sector, entirely through efficiency gains in its landscape water use sector, entirely through efficiency gains in its commercial, institutional, and industrial sector, or through any combination among these sectors.

10608.32. All costs incurred pursuant to this part by a water utility regulated by the Public Utilities Commission may be recoverable in rates subject to review and approval by the Public Utilities Commission, and may be recorded in a memorandum account and reviewed for reasonableness by staff of the Public Utilities Commission.

10608.36. Urban wholesale water suppliers shall include in the urban water management plans required pursuant to Part 2.6 (commencing with Section 10610) an assessment of their present and proposed future measures, programs, and policies to help achieve the water use reductions required by this part.

10608.40. Urban water retail suppliers shall report to the department on their progress in meeting their urban water use targets as part of their urban water management plans submitted pursuant to Section 10631.

10608.42. The department shall review the 2015 urban water management plans and report to the Legislature by December 31, 2016, on progress towards achieving a 20-percent reduction in

1 urban water use by 2020. The report may include recommendations
2 on changes to water efficiency standards or urban water use targets
3 in order to achieve the 20-percent reduction and to reflect updated
4 efficiency information and technology changes.

5 ~~10608.43. The department shall, in conjunction with the~~
6 ~~California Urban Water Conservation Council, by April 1, 2010,~~
7 ~~convene a task force consisting of experts to develop alternative~~
8 ~~best management practices for commercial, industrial, and~~
9 ~~institutional users. The task force shall submit a report to the~~
10 ~~Legislature, by April 1, 2012, that shall include a review of multiple~~
11 ~~sectors and that shall establish water use efficiency standards for~~
12 ~~commercial, industrial, and institutional users among various~~
13 ~~sectors of water use.~~

14 *10608.43. The department shall, in conjunction with the*
15 *California Urban Water Conservation Council, by April 1, 2010,*
16 *convene a task force consisting of experts to develop alternative*
17 *best management practices for commercial, industrial, and*
18 *institutional users and an assessment of the potential statewide*
19 *reduction in water use in the commercial, industrial, and*
20 *institutional sector that would result from implementation of these*
21 *best management practices. The task force shall submit a report*
22 *to the Legislature by April 1, 2012, that shall include a review of*
23 *multiple sectors within commercial, industrial, and institutional*
24 *users and that shall establish water use efficiency standards for*
25 *commercial, industrial, and institutional users among various*
26 *sectors of water use, those sectors shall be based on consideration*
27 *of, but not limited to, the following:*

28 *(a) Appropriate metrics for evaluating commercial, industrial,*
29 *and institutional water use.*

30 *(b) Evaluation of water demands for manufacturing processes,*
31 *goods, and cooling.*

32 *(c) Evaluation of public infrastructure necessary for delivery*
33 *of recycled water to the commercial, industrial, and institutional*
34 *sectors.*

35 *(d) Evaluation of institutional and economic barriers to*
36 *increased recycled water use within the commercial, industrial,*
37 *and institutional sectors.*

38 *(e) Identification of technically feasible best management*
39 *practices to achieve more efficient water use statewide in the*
40 *commercial, industrial, and institutional sectors that is consistent*

1 *with the public interest and reflects past investments in water use*
2 *efficiency.*

3 10608.44. State agencies shall reduce water use on facilities
4 they own or operate to support urban retail water suppliers in
5 meeting the target identified in Section 10608.16.

6
7 CHAPTER 4. AGRICULTURAL WATER SUPPLIERS
8

9 10608.48. (a) On or before July 31, 2012, an agricultural water
10 supplier shall implement ~~water use efficiency~~ *best efficient water*
11 management practices pursuant to subdivisions (b) and (c).

12 (b) Agricultural water suppliers shall implement all of the
13 following critical ~~best efficient~~ management practices:

14 (1) Measure the volume of water delivered to customers with
15 sufficient accuracy to comply with subdivision (a) of Section
16 531.10 and to implement volumetric pricing pursuant to paragraph
17 (4).

18 (2) Designate a water conservation coordinator who will develop
19 and implement the water management plan and prepare progress
20 reports.

21 (3) Provide for the availability of water management services
22 to water users. These services may include, but are not limited to,
23 all of the following:

24 (A) On-farm irrigation and drainage system evaluations.

25 (B) Normal year and real-time irrigation scheduling and crop
26 evapotranspiration information.

27 (C) Surface water, groundwater, and drainage water quantity
28 and quality data.

29 (D) Agricultural water management educational programs and
30 materials for farmers, staff, and the public.

31 (4) Adopt a pricing structure for water customers based at least
32 in part on quantity delivered.

33 (5) Evaluate the policies of agencies that provide the supplier
34 with water to identify the potential for institutional changes to
35 allow more flexible water deliveries and storage.

36 (6) Evaluate and improve the efficiencies of the supplier's
37 pumps.

38 (c) Agricultural water suppliers shall implement additional ~~best~~
39 *efficient* management practices, including, but not limited to,

- 1 practices to accomplish all of the following, if the measures are
2 locally cost-effective and technically feasible:
- 3 (1) Facilitate alternative land use for lands with exceptionally
4 high water duties or whose irrigation contributes to significant
5 problems, including drainage.
- 6 (2) Facilitate use of available recycled water that otherwise
7 would not be used beneficially, meets all health and safety criteria,
8 and does not harm crops or soils.
- 9 (3) Facilitate the financing of capital improvements for on-farm
10 irrigation systems.
- 11 (4) Implement an incentive pricing structure that promotes one
12 or more of the following goals:
- 13 (A) More efficient water use at the farm level.
- 14 (B) Conjunctive use of groundwater.
- 15 (C) Appropriate increase of groundwater recharge.
- 16 (D) Reduction in problem drainage.
- 17 (E) Improved management of environmental resources.
- 18 (F) Effective management of all water sources throughout the
19 year by adjusting seasonal pricing structures based on current
20 conditions.
- 21 (5) Line or pipe distribution systems and construct regulatory
22 reservoirs to increase distribution system flexibility and capacity,
23 decrease maintenance, and reduce seepage.
- 24 (6) Increase flexibility in water ordering by, and delivery to,
25 water customers within operational limits.
- 26 (7) Construct and operate supplier spill and tailwater recovery
27 systems.
- 28 (8) Increase planned conjunctive use of surface and groundwater
29 within the supplier service area.
- 30 (9) Automate canal control structures.
- 31 (10) Facilitate or promote customer pump testing and evaluation.
- 32 (d) Agricultural water suppliers shall report to the department
33 on which ~~best~~ *efficient water* management practices have been
34 implemented and are planned to be implemented, an estimate of
35 the water savings that have occurred since the last report, and an
36 estimate of the water savings estimated to occur five and 10 years
37 in the future. If an agricultural water supplier determines that a
38 ~~best~~ *efficient water* management practice is not locally
39 cost-effective or technically feasible, the supplier shall submit
40 information documenting that determination.

(e) The reports shall be submitted to the department on or before December 31, 2012, and thereafter in years ending in zero and years ending in five.

(f) Agricultural water supplier reporting requirements may be met through the submission to the department of an agricultural water management plan required pursuant to Section 10820, or developed for the United States Bureau of Reclamation that is consistent with this part.

(g) The reports shall be submitted using a standardized form developed pursuant to Section 10608.52.

(h) On or before December 31, 2013, December 31, 2016, and December 31, 2021, the department, in consultation with the state board, shall submit to the Legislature a report on the agricultural *best efficient water* management practices that have been implemented and are planned to be implemented and an assessment of the manner in which the implementation of those *best efficient water* management practices has affected and will affect agricultural operations, including estimated water savings, if any.

(i) The department may update the best management practices required pursuant to subdivisions (b) and (c), in consultation with the Agricultural Water Management Council, the United States Bureau of Reclamation, and the state board. All best management practices for agricultural water use pursuant to this chapter shall be adopted or revised by the department only after the department conducts public hearings to allow participation of the diverse geographical areas and interests of the state.

CHAPTER 5. STANDARDIZED DATA COLLECTION

10608.52. (a) The department, in consultation with the board, the California Bay-Delta Authority, the State Department of Public Health, and the Public Utilities Commission, shall develop a single standardized water use reporting form to meet the water use information needs of each agency, including the needs of urban water suppliers that elect to determine and report progress toward achieving targets on a regional basis as provided in subdivision (a) of Section 10608.28.

(b) At a minimum, the form shall be developed to accommodate information sufficient to assess an urban water supplier's compliance with conservation targets pursuant to Section 10608.24

1 and an agricultural water supplier's compliance with
2 implementation of best management practices pursuant to
3 subdivision (a) of Section 10608.48. The form shall accommodate
4 reporting by water suppliers on an individual or regional basis as
5 provided in subdivision (a) of Section 10608.28.

6
7 CHAPTER 6. FUNDING PROVISIONS
8

9 10608.56. (a) Beginning July 1, 2016, the terms of, and
10 eligibility for, a water management grant or loan made to urban
11 retail water suppliers and awarded or administered by the
12 department, board, or California Bay-Delta Authority or its
13 successor agency shall be conditioned on the implementation of
14 this part.

15 (b) Beginning July 1, 2013, the terms of, and eligibility for, a
16 water management grant or loan made to agricultural water
17 suppliers and awarded or administered by the department, board,
18 or California Bay-Delta Authority or its successor agency shall be
19 conditioned on the implementation of this part.

20 (c) Notwithstanding subdivision (a), the department shall
21 determine that an urban retail water supplier is eligible for a water
22 management grant or loan even though the supplier has not met
23 the per capita reductions required pursuant to Section 10608.24,
24 if the urban retail water supplier has submitted to the department
25 for approval a schedule, financing plan, and budget, to be included
26 in the grant or loan agreement, for achieving the per capita
27 reductions. The supplier may request grant or loan funds to achieve
28 the per capita reductions to the extent the request is consistent with
29 the eligibility requirements applicable to the water management
30 funds.

31 (d) Notwithstanding subdivision (b), the department shall
32 determine that an agricultural water supplier is eligible for a water
33 management grant or loan even though the supplier is not
34 implementing all of the best management practices described in
35 Section 10608.48, if the agricultural water supplier has submitted
36 to the department for approval a schedule, financing plan, and
37 budget, to be included in the grant or loan agreement, for
38 implementation of the best management practices. The supplier
39 may request grant or loan funds to implement the best management

1 practices to the extent the request is consistent with the eligibility
2 requirements applicable to the water management funds.

3 (e) Notwithstanding subdivision (a), the department shall
4 determine that an urban retail water supplier is eligible for a water
5 management grant or loan even though the supplier has not met
6 the per capita reductions required pursuant to Section 10608.24,
7 if the urban retail water supplier has submitted to the department
8 for approval documentation demonstrating that their entire service
9 area qualifies as a disadvantaged community.

10 10608.60. (a) It is the intent of the Legislature that funds made
11 available by Section 75026 of the Public Resources Code should
12 be expended, consistent with Division 43 (commencing with
13 Section 75001) of the Public Resources Code and upon
14 appropriation by the Legislature, for grants to implement this part.
15 In the allocation of funding, it is the intent of the Legislature that
16 the department give consideration to disadvantaged communities
17 to assist in implementing the requirements of this part.

18 (b) It is the intent of the Legislature that funds made available
19 by Section 75041 of the Public Resources Code should be expended
20 consistent with Division 43 (commencing with Section 75001) of
21 the Public Resources Code and, upon appropriation by the
22 Legislature, for direct expenditures to implement this part.

23
24 CHAPTER 7. QUANTIFYING AGRICULTURAL WATER USE
25 EFFICIENCY
26

27 10608.64. The department, *in consultation with the Agricultural*
28 *Water Management Council, academic experts, and other*
29 *stakeholders*, shall develop a methodology for quantifying the
30 efficiency of agricultural water use. Alternatives to be assessed
31 shall include, but not be limited to, determination of efficiency
32 levels based on crop type or irrigation system distribution
33 uniformity. On or before December 31, 2011, the department shall
34 report to the Legislature on a proposed methodology and a plan
35 for implementation. The plan shall include the estimated
36 implementation costs and the types of data needed to support the
37 methodology.

38 SEC. 2. Section 10631.5 of the Water Code is amended to read:

39 10631.5. (a) (1) Beginning January 1, 2009, the terms of, and
40 eligibility for, a water management grant or loan made to an urban

1 water supplier and awarded or administered by the department,
2 state board, or California Bay-Delta Authority or its successor
3 agency shall be conditioned on the implementation of the water
4 demand management measures described in Section 10631, as
5 determined by the department pursuant to subdivision (b).

6 (2) For the purposes of this section, water management grants
7 and loans include funding for programs and projects for surface
8 water or groundwater storage, recycling, desalination, water
9 conservation, water supply reliability, and water supply
10 augmentation. This section does not apply to water management
11 projects funded by the federal American Recovery and
12 Reinvestment Act of 2009 (Public Law 111-5).

13 (3) Notwithstanding paragraph (1), the department shall
14 determine that an urban water supplier is eligible for a water
15 management grant or loan even though the supplier is not
16 implementing all of the water demand management measures
17 described in Section 10631, if the urban water supplier has
18 submitted to the department for approval a schedule, financing
19 plan, and budget, to be included in the grant or loan agreement,
20 for implementation of the water demand management measures.
21 The supplier may request grant or loan funds to implement the
22 water demand management measures to the extent the request is
23 consistent with the eligibility requirements applicable to the water
24 management funds.

25 (4) (A) Notwithstanding paragraph (1), the department shall
26 determine that an urban water supplier is eligible for a water
27 management grant or loan even though the supplier is not
28 implementing all of the water demand management measures
29 described in Section 10631, if an urban water supplier submits to
30 the department for approval documentation demonstrating that a
31 water demand management measure is not locally cost effective.
32 If the department determines that the documentation submitted by
33 the urban water supplier fails to demonstrate that a water demand
34 management measure is not locally cost effective, the department
35 shall notify the urban water supplier and the agency administering
36 the grant or loan program within 120 days that the documentation
37 does not satisfy the requirements for an exemption, and include
38 in that notification a detailed statement to support the
39 determination.

1 (B) For purposes of this paragraph, “not locally cost effective”
2 means that the present value of the local benefits of implementing
3 a water demand management measure is less than the present value
4 of the local costs of implementing that measure.

5 (b) (1) The department, in consultation with the state board and
6 the California Bay-Delta Authority or its successor agency, and
7 after soliciting public comment regarding eligibility requirements,
8 shall develop eligibility requirements to implement the requirement
9 of paragraph (1) of subdivision (a). In establishing these eligibility
10 requirements, the department shall do both of the following:

11 (A) Consider the conservation measures described in the
12 Memorandum of Understanding Regarding Urban Water
13 Conservation in California, and alternative conservation approaches
14 that provide equal or greater water savings.

15 (B) Recognize the different legal, technical, fiscal, and practical
16 roles and responsibilities of wholesale water suppliers and retail
17 water suppliers.

18 (2) (A) For the purposes of this section, the department shall
19 determine whether an urban water supplier is implementing all of
20 the water demand management measures described in Section
21 10631 based on either, or a combination, of the following:

22 (i) Compliance on an individual basis.

23 (ii) Compliance on a regional basis. Regional compliance shall
24 require participation in a regional conservation program consisting
25 of two or more urban water suppliers that achieves the level of
26 conservation or water efficiency savings equivalent to the amount
27 of conservation or savings achieved if each of the participating
28 urban water suppliers implemented the water demand management
29 measures. The urban water supplier administering the regional
30 program shall provide participating urban water suppliers and the
31 department with data to demonstrate that the regional program is
32 consistent with this clause. The department shall review the data
33 to determine whether the urban water suppliers in the regional
34 program are meeting the eligibility requirements.

35 (B) The department may require additional information for any
36 determination pursuant to this section.

37 (3) The department shall not deny eligibility to an urban water
38 supplier in compliance with the requirements of this section that
39 is participating in a multiagency water project, or an integrated
40 regional water management plan, developed pursuant to Section

1 75026 of the Public Resources Code, solely on the basis that one
2 or more of the agencies participating in the project or plan is not
3 implementing all of the water demand management measures
4 described in Section 10631.

5 (c) In establishing guidelines pursuant to the specific funding
6 authorization for any water management grant or loan program
7 subject to this section, the agency administering the grant or loan
8 program shall include in the guidelines the eligibility requirements
9 developed by the department pursuant to subdivision (b).

10 (d) Upon receipt of a water management grant or loan
11 application by an agency administering a grant and loan program
12 subject to this section, the agency shall request an eligibility
13 determination from the department with respect to the requirements
14 of this section. The department shall respond to the request within
15 60 days of the request.

16 (e) The urban water supplier may submit to the department
17 copies of its annual reports and other relevant documents to assist
18 the department in determining whether the urban water supplier
19 is implementing or scheduling the implementation of water demand
20 management activities. In addition, for urban water suppliers that
21 are signatories to the Memorandum of Understanding Regarding
22 Urban Water Conservation in California and submit biennial reports
23 to the California Urban Water Conservation Council in accordance
24 with the memorandum, the department may use these reports to
25 assist in tracking the implementation of water demand management
26 measures.

27 (f) This section shall remain in effect only until July 1, 2016,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before July 1, 2016, deletes or extends that date.

30 SEC. 3. Part 2.8 (commencing with Section 10800) of Division
31 6 of the Water Code is repealed.

32 SEC. 4. Part 2.8 (commencing with Section 10800) is added
33 to Division 6 of the Water Code, to read:

PART 2.8. AGRICULTURAL WATER MANAGEMENT
PLANNING

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

10800. This part shall be known and may be cited as the Agricultural Water Management Planning Act.

10801. The Legislature finds and declares all of the following:

(a) The waters of the state are a limited and renewable resource.

(b) The California Constitution requires that water in the state be used in a reasonable and beneficial manner.

(c) Urban water districts are required to adopt water management plans.

(d) The conservation of agricultural water supplies is of great statewide concern.

(e) There is a great amount of reuse of delivered water, both inside and outside the water service areas.

(f) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.

(g) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.

(h) Changes in water management practices should be carefully planned and implemented to minimize adverse effects on other beneficial uses currently being served.

(i) Agricultural water suppliers that receive water from the Central Valley Project are required by federal law to prepare and implement water conservation plans.

(j) Agricultural water users applying for a permit to appropriate water from the board are required to prepare and implement water conservation plans.

10802. The Legislature finds and declares that all of the following are the policies of the state:

(a) The conservation of water shall be pursued actively to protect both the people of the state and the state's water resources.

(b) The conservation of agricultural water supplies shall be an important criterion in public decisions with regard to water.

(c) Agricultural water suppliers shall be required to prepare water management plans to achieve conservation of water.

CHAPTER 2. DEFINITIONS

10810. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

10811. “Agricultural water management plan” or “plan” means an agricultural water management plan prepared pursuant to this part.

10812. “Agricultural water supplier” has the same meaning as defined in Section 10608.12.

10813. “Customer” means a purchaser of water from a water supplier who uses water for agricultural purposes.

10814. “Person” means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.

10815. “Public agency” means any city, county, city and county, special district, or other public entity.

10816. “Urban water supplier” has the same meaning as set forth in Section 10617.

10817. “Water conservation” means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS

Article 1. General Provisions

10820. (a) An agricultural water supplier shall prepare and adopt an agricultural water management plan in the manner set forth in this chapter on or before December 31, 2012, and updated on December 31, 2015, and on or before December 31 every five years thereafter.

(b) Every supplier that becomes an agricultural water supplier after December 31, 2012, shall prepare and adopt an agricultural water management plan within one year after the date it has become an agricultural water supplier.

(c) A water supplier that indirectly provides water to customers for agricultural purposes shall not prepare a plan pursuant to this part without the consent of each agricultural water supplier that directly provides that water to its customers.

1 10821. (a) An agricultural water supplier shall update its plan
2 at least once every five years on or before December 31, in years
3 ending in zero and five.

4 (b) An agricultural water supplier required to prepare a plan
5 pursuant to this part shall notify each city or county within which
6 the supplier provides water supplies that the agricultural water
7 supplier will be preparing the plan or reviewing the plan and
8 considering amendments or changes to the plan. The agricultural
9 water supplier may consult with, and obtain comments from, each
10 city or county that receives notice pursuant to this subdivision.

11 (c) The amendments to, or changes in, the plan shall be adopted
12 and submitted in the manner set forth in Article 3 (commencing
13 with Section 10840).

14
15 Article 2. Contents of Plans
16

17 10825. (a) It is the intent of the Legislature in enacting this
18 part to allow levels of water management planning commensurate
19 with the numbers of customers served and the volume of water
20 supplied.

21 (b) This part does not require the implementation of water
22 conservation programs or practices that are not locally cost
23 effective.

24 10826. An agricultural water management plan shall be adopted
25 in accordance with this chapter. The plan shall do all of the
26 following:

27 (a) Describe the agricultural water supplier and the service area,
28 including all of the following:

- 29 (1) Size of the service area.
30 (2) Location of the service area and its water management
31 facilities.
32 (3) Terrain and soils.
33 (4) Climate.
34 (5) Operating rules and regulations.
35 (6) Water delivery measurements or calculations.
36 (7) Water rate schedules and billing.
37 (8) Water shortage allocation policies.

38 (b) Describe the quantity and quality of water resources of the
39 agricultural water supplier, including all of the following:

- 40 (1) Surface water supply.

- 1 (2) Groundwater supply.
- 2 (3) Other water supplies.
- 3 (4) Source water quality monitoring practices.
- 4 (5) Water uses within the agricultural water supplier's service
- 5 area, including all of the following:
- 6 (A) Agricultural.
- 7 (B) Environmental.
- 8 (C) Recreational.
- 9 (D) Municipal and industrial.
- 10 (E) Groundwater recharge.
- 11 (F) Transfers and exchanges.
- 12 (G) Other water uses.
- 13 (6) Drainage from the water supplier's service area.
- 14 (7) Water accounting, including all of the following:
- 15 (A) Quantifying the water supplier's water supplies.
- 16 (B) Tabulating water uses.
- 17 (C) Overall water budget.
- 18 (8) Water supply reliability.
- 19 (c) Include an analysis, based on available information, of the
- 20 effect of climate change on future water supplies.
- 21 (d) Describe previous water management activities.
- 22 (e) Include in the plan the water use efficiency information
- 23 required pursuant to Section 10608.48.
- 24 10827. Agricultural water suppliers that are members of the
- 25 Agricultural Water Management Council, and that submit water
- 26 management plans to that council in accordance with the
- 27 "Memorandum of Understanding Regarding Efficient Water
- 28 Management Practices By Agricultural Water Suppliers In
- 29 California," dated January 1, 1999, may submit the water
- 30 management plans identifying water demand management
- 31 measures currently being implemented, or scheduled for
- 32 implementation, to satisfy the requirements of Section 10826.
- 33 10828. (a) Agricultural water suppliers that are required to
- 34 submit water conservation plans to the United States Bureau of
- 35 Reclamation pursuant to either the Central Valley Project
- 36 Improvement Act (Public Law 102-575) or the Reclamation
- 37 Reform Act of 1982, or both, may submit those water conservation
- 38 plans to satisfy the requirements of Section 10826, if both of the
- 39 following apply:

1 (1) The agricultural water supplier has adopted and submitted
2 the water conservation plan to the United States Bureau of
3 Reclamation within the previous four years.

4 (2) The United States Bureau of Reclamation has accepted the
5 water conservation plan as adequate.

6 (b) This part does not require agricultural water suppliers that
7 are required to submit water conservation plans to the United States
8 Bureau of Reclamation pursuant to either the Central Valley Project
9 Improvement Act (Public Law 102-575) or the Reclamation
10 Reform Act of 1982, or both, to prepare and adopt water
11 conservation plans according to a schedule that is different from
12 that required by the United States Bureau of Reclamation.

13 10829. An agricultural water supplier may satisfy the
14 requirements of this part by adopting an urban water management
15 plan pursuant to Part 2.6 (commencing with Section 10610) or by
16 participation in areawide, regional, watershed, or basinwide water
17 management planning if those plans meet or exceed the
18 requirements of this part.

19
20 Article 3. Adoption and Implementation of Plans
21

22 10840. Every agricultural water supplier shall prepare its plan
23 pursuant to Article 2 (commencing with Section 10825).

24 10841. Prior to adopting a plan, the agricultural water supplier
25 shall make the proposed plan available for public inspection, and
26 shall hold a public hearing on the plan. Prior to the hearing, notice
27 of the time and place of hearing shall be published within the
28 jurisdiction of the publicly owned agricultural water supplier
29 pursuant to Section 6066 of the Government Code. A privately
30 owned agricultural water supplier shall provide an equivalent notice
31 within its service area. After the hearing, the plan shall be adopted
32 as prepared or as modified during or after the hearing.

33 10842. An agricultural water supplier shall implement the plan
34 adopted pursuant to this chapter in accordance with the schedule
35 set forth in its plan, as determined by the governing body of the
36 agricultural water supplier.

37 10843. (a) An agricultural water supplier shall submit to the
38 entities identified in subdivision (b) a copy of its plan no later than
39 30 days after the adoption of the plan. Copies of amendments or
40 changes to the plans shall be submitted to the entities identified in

1 subdivision (b) within 30 days after the adoption of the
2 amendments or changes.

3 (b) An agricultural water supplier shall submit a copy of its plan
4 and amendments or changes to the plan to each of the following
5 entities:

6 (1) The department.

7 (2) Any city, county, or city and county within which the
8 agricultural water supplier provides water supplies.

9 (3) Any groundwater management entity within which
10 jurisdiction the agricultural water supplier extracts or provides
11 water supplies.

12 (4) Any urban water supplier within which jurisdiction the
13 agricultural water supplier provides water supplies.

14 (5) Any city or county library within which jurisdiction the
15 agricultural water supplier provides water supplies.

16 (6) The California State Library.

17 (7) Any local agency formation commission serving a county
18 within which the agricultural water supplier provides water
19 supplies.

20 10844. (a) Not later than 30 days after the date of adopting its
21 plan, the agricultural water supplier shall make the plan available
22 for public review on the agricultural water supplier's Internet Web
23 site.

24 (b) An agricultural water supplier that does not have an Internet
25 Web site shall submit to the department, not later than 30 days
26 after the date of adopting its plan, a copy of the adopted plan in
27 an electronic format. The department shall make the plan available
28 for public review on the department's Internet Web site.

29 10845. (a) The department shall prepare and submit to the
30 Legislature, on or before December 31, 2013, and thereafter in the
31 years ending in six and years ending in one, a report summarizing
32 the status of the plans adopted pursuant to this part.

33 (b) The report prepared by the department shall identify the
34 outstanding elements of any plan adopted pursuant to this part.
35 The report shall include an evaluation of the effectiveness of this
36 part in promoting efficient agricultural water management practices
37 and recommendations relating to proposed changes to this part, as
38 appropriate.

39 (c) The department shall provide a copy of the report to each
40 agricultural water supplier that has submitted its plan to the

1 department. The department shall also prepare reports and provide
2 data for any legislative hearing designed to consider the
3 effectiveness of plans submitted pursuant to this part.

4 (d) This section does not authorize the department, in preparing
5 the report, to approve, disapprove, or critique individual plans
6 submitted pursuant to this part.

7
8 CHAPTER 4. MISCELLANEOUS PROVISIONS
9

10 10850. (a) Any action or proceeding to attack, review, set
11 aside, void, or annul the acts or decisions of an agricultural water
12 supplier on the grounds of noncompliance with this part shall be
13 brought pursuant to Section 1085 of the Code of Civil Procedure,
14 and the court's review of compliance or noncompliance with this
15 part shall extend to whether the plan, or portion thereof, or revision
16 thereto, substantially complies with the requirements of this part.

17 (b) An action or proceeding alleging failure to adopt a plan shall
18 be commenced within 18 months after that adoption is required
19 by this part.

20 (c) Any action or proceeding alleging that a plan, or action taken
21 pursuant to the plan, does not comply with this part shall be
22 commenced within 120 days after submitting the plan or
23 amendments to the plan to entities in accordance with Section
24 10844 or the taking of that action.

25 (d) In an action or proceeding to attack, review, set aside, void,
26 or annul the acts or decisions of an agricultural water supplier
27 made pursuant to this part at a properly noticed public hearing, the
28 issues raised shall be limited to those raised in the public hearing,
29 or in written correspondence delivered to the agricultural water
30 supplier prior to, or at, the public hearing, except if the court finds
31 either of the following:

32 (1) The issue could not have been raised at the public hearing
33 by a person exercising reasonable diligence.

34 (2) The body conducting the public hearing prevented the issue
35 from being raised at the public hearing.

36 10851. The California Environmental Quality Act (Division
37 13 (commencing with Section 21000) of the Public Resources
38 Code) does not apply to the preparation and adoption of plans
39 pursuant to this part. This part does not exempt projects for

1 implementation of the plan or for expanded or additional water
2 supplies from the California Environmental Quality Act.
3 10852. An agricultural water supplier that does not prepare,
4 adopt, and submit its agricultural water management plan in
5 accordance with this part is ineligible to receive funds made
6 available pursuant to any program administered by the board, the
7 department, or the California Bay-Delta Authority, or participate
8 in any drought assistance program administered by the state, until
9 the agricultural water management plan is submitted pursuant to
10 this part.