

Introduced by Senator Ducheny

February 25, 2009

An act to add Chapter 27 (commencing with Section 16100) to Division 7 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 310, as introduced, Ducheny. Water quality: stormwater and other runoff.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the federal national pollutant discharge elimination system (NPDES) permit program pursuant to the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Various programs finance regional water management planning.

This bill would authorize a county, city, or special district that is a permittee or copermitttee under an NPDES permit for a municipal separate storm sewer system to develop a watershed improvement plan that addresses major sources of pollutants in receiving water, stormwater, urban runoff, or other surface runoff pollution within the watershed or subwatershed to which the plan applies. The regional boards would be authorized to participate in the preparation of the watershed improvement plan. The bill would authorize a county, city, or special district, or combination thereof, to impose fees on activities that generate or contribute to runoff, stormwater, or surface runoff pollution to pay the costs of the preparation of a watershed improvement plan or the implementation of a plan that is approved by a regional board if the plan will facilitate compliance with one or more water quality requirements. The bill would authorize a county, city, or special

district, or combination thereof, to plan, design, implement, construct, operate, and maintain controls and facilities to improve water quality.

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

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) Uncontrolled pollutants in urban runoff, stormwater, and
4 other forms of runoff and nonpoint source pollution present a
5 significant water quality problem and challenge to the State of
6 California, and can affect adversely surface waters, water supplies,
7 public health, recreation, and ecology.

8 (b) In 2008, the National Research Council's Committee on
9 Reducing Stormwater Discharge Contributions to Water Pollution
10 published a report entitled Urban Stormwater Management in the
11 United States. The report examined the effectiveness of existing
12 regulatory programs and found that significant changes are needed
13 if they are to improve the quality of the nation's waters. A principal
14 conclusion of the report is that stormwater cannot be adequately
15 managed on a piecemeal basis due to the complexity of both the
16 hydrologic and pollutant processes and their effect on habitat and
17 stream quality. The report recommends that stormwater and other
18 forms of runoff are best addressed through a watershed-based
19 approach.

20 (c) This act will encourage the development of watershed-based
21 solutions through the development, adoption, and implementation
22 of watershed improvement plans. As provided in this act, watershed
23 improvement plans will enable counties, cities, and special districts,
24 in cooperation with regional water quality control boards and
25 stakeholder groups, to finance, construct, implement, operate, and
26 maintain pollution controls and facilities necessary to improve
27 water quality. By doing so, this act encourages local agencies to
28 develop and implement their own long-term, locally based projects
29 to remedy water pollution. Cities, counties, and special districts
30 throughout California are increasingly implementing successful
31 and cooperative drainage area, stormwater, and dry weather runoff
32 detention, capture, natural treatment, manmade wetland, and
33 infiltration projects on a more regional scale.

1 (d) Planning, designing, constructing, maintaining, operating,
2 and financing of facilities and systems for diversion, interception,
3 or collection of urban runoff, stormwater subject to waste discharge
4 requirements, and nonpoint source pollution, the treatment of these
5 waters and pollutants, the return of diverted waters to receiving
6 water bodies, the enhancement of beneficial uses of waters of the
7 state, and the beneficial use or reuse of diverted waters are an
8 essential part of providing effective sewer, water, and refuse
9 collection services, and are necessary for compliance with water
10 quality laws and regulations, attainment of water quality standards,
11 as well as the maintenance of public health.

12 (e) The presence of refuse and other pollutants in runoff is a
13 serious problem, as indicated by the adoption of trash total
14 maximum daily loads and water quality standards relating to trash
15 and other constituents of runoff. The planning, financing,
16 implementation, construction, operation, and maintenance of
17 facilities to manage urban runoff, stormwater, and nonpoint source
18 pollution are therefore necessary for, and constitute an integral
19 part of, refuse collection services and services dedicated to
20 supplying clean water for human use, and are a necessary response
21 to the scheme of water quality regulation and to the maintenance
22 of public health.

23 (f) During heavy rains, stormwater and urban runoff can
24 overwhelm sewer systems, causing sewage to mix with stormwater
25 and urban runoff. Leaks from sanitary sewers allow sewage to
26 pollute runoff water. These water-borne sources of sewage can
27 make their way to the coastal zone, resulting in beach closures and
28 related public health problems. Also, diffuse sources of bacteria
29 affect the quality of urban runoff and stormwater, contributing to
30 reduced coastal water quality. Providing for the financing,
31 planning, designing, constructing, and operating of facilities to
32 manage urban runoff, stormwater, and nonpoint source pollution
33 is therefore necessary for, and constitutes an integral part of,
34 effective sewer systems, and is a necessary response to the scheme
35 of water quality regulation, and to the maintenance of public health.

36 (g) The control of pollution in urban runoff, stormwater, other
37 forms of runoff, and nonpoint source pollution is not part of flood
38 control, and facilities for these purposes, even if combined with
39 and useful for flood control as well as water quality, are not
40 drainage systems.

1 SEC. 2. Chapter 27 (commencing with Section 16100) is added
2 to Division 7 of the Water Code, to read:

3
4 CHAPTER 27. CALIFORNIA WATERSHED IMPROVEMENT ACT OF
5 2009
6

7 16100. This chapter shall be known and may be cited as the
8 California Watershed Improvement Act of 2009.

9 16101. (a) Each county, city, or special district that is a
10 permittee or copermitttee under a national pollutant discharge
11 elimination system (NPDES) permit for municipal separate storm
12 sewer systems may develop, either individually or jointly with one
13 or more permittees or copermitttees, a watershed improvement plan
14 that addresses major sources of pollutants in receiving water,
15 stormwater, urban runoff, or other surface runoff pollution within
16 the watershed or subwatershed to which the plan applies. The
17 principal purpose of a watershed improvement plan is to implement
18 existing and future water quality requirements and regulations by,
19 among other things, identifying opportunities for stormwater
20 detention, use of natural treatment systems, water recycling, reuse,
21 and supply augmentation; and providing programs and measures
22 designed to promote, maintain, or achieve compliance with water
23 quality laws and regulations, including water quality standards
24 and other requirements of statewide plans, regional water quality
25 control plans, total maximum daily loads, and NPDES permits.

26 (b) The process of developing a watershed improvement plan
27 shall be open and transparent, and a county, city, special district,
28 or combination thereof, shall, to the extent feasible and appropriate,
29 solicit input from entities representing resource agencies, water
30 agencies, sanitation districts, the environmental community,
31 landowners, home builders, agricultural interests, and business
32 and industry representatives.

33 (c) Each county, city, special district, or combination thereof
34 shall notify the appropriate regional board of its intention to
35 develop a watershed improvement plan. The regional board may,
36 in its discretion, participate in the preparation of the plan. A
37 watershed improvement plan shall be consistent with the regional
38 board's water quality control plan.

(d) A watershed improvement plan shall include all of the following elements relevant to the waters within the watershed or subwatershed to which the plan applies:

(1) A description of the watershed or subwatershed improvement plan area, the rivers, streams, or manmade drainage channels within the plan area, the agencies with regulatory jurisdiction over matters to be addressed in the plan, the relevant receiving waters within or downstream from the plan area, and the county, city, special district, or combination thereof, participating in the plan.

(2) A description of the proposed facilities and actions that will improve the protection and enhancement of water quality and the designated beneficial uses of waters of the state, consistent with water quality laws and regulations.

(3) Recommendations for appropriate action by any entity, public or private, to facilitate achievement of, or consistency with, water quality objectives, standards, total maximum daily loads, or other water quality laws, regulations, standards, or requirements, a time schedule for the actions to be taken, and a description of appropriate measurement and monitoring to be undertaken to determine improvement in water quality.

(4) A coordinated economic analysis and financing plan that identifies the costs, effectiveness, and benefits of water quality improvements specified in the watershed improvement plan, and, where feasible, incorporates user-based and cost recovery approaches to financing, which place the cost of managing and treating surface runoff pollution on the generators of the pollutants.

(5) To the extent applicable, a description of regional best management practices, watershed-based natural treatment systems, low-flow diversion systems, stormwater capture, urban runoff capture, other measures constituting structural treatment best management practices, pollution prevention measures, low-impact development strategies, and site design, source control, and treatment control best management practices to promote improved water quality.

(6) A description of the proposed structure, operations, powers, and duties of the implementing entity for the watershed improvement plan.

16102. A regional board may, if it deems appropriate, utilize provisions of approved watershed improvement plans to promote

1 compliance with one or more of the regional board's regulatory
2 plans or programs.

3 16103. (a) In addition to making use of other financing
4 mechanisms that are available to local agencies to fund watershed
5 improvement plans and plan measures and facilities, a county,
6 city, special district, or combination thereof may impose fees on
7 activities that generate or contribute to runoff, stormwater, or
8 surface runoff pollution, to pay the costs of the preparation of a
9 watershed improvement plan, and the implementation of a
10 watershed improvement plan that is approved by a regional board,
11 if the plan will facilitate compliance with one or more water quality
12 requirements. Fees imposed pursuant to this section shall be
13 reasonably related to the actual or anticipated past, present, or
14 future adverse effects of the feepayer's activities. "Activities," for
15 purposes of this subdivision, include all the activities, operations,
16 and existing structures and improvements subject to regulation
17 under an NPDES permit for municipal separate storm sewer
18 systems.

19 (b) A county, city, special district, or combination thereof may
20 plan, design, implement, construct, operate, and maintain controls
21 and facilities to improve water quality, including controls and
22 facilities related to the diversion, interception, or collection of
23 surface runoff, including urban runoff, stormwater, and other forms
24 of runoff, the treatment of pollutants in runoff or other waters
25 subject to water quality regulatory requirements, the return of
26 diverted and treated waters to receiving water bodies, the
27 enhancement of beneficial uses of waters of the state, or the
28 beneficial use or reuse of diverted waters.

29 (c) The fees authorized under subdivision (a) may be imposed
30 as user-based or regulatory fees consistent with this chapter.