

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 29, 2009

SENATE BILL

No. 310

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 amended, 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 regional boards would be required to review and approve a watershed improvement plan if they find that the proposed 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 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:

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

CHAPTER 27. CALIFORNIA WATERSHED IMPROVEMENT ACT OF
2009

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

16101. (a) Each county, city, or special district that is a permittee or copermitttee under a national pollutant discharge elimination system (NPDES) permit for municipal separate storm sewer systems may develop, either individually or jointly with one or more permittees or copermitttees, 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 principal purpose of a watershed improvement plan is to implement existing and future water quality requirements and regulations by, among other things, where appropriate, identifying opportunities for stormwater detention, infiltration, use of natural treatment systems, water recycling, reuse, and supply augmentation; and providing programs and measures designed to promote, maintain, or achieve compliance with water quality laws and regulations, including water quality standards and other requirements of statewide plans, regional water quality control plans, total maximum daily loads, and NPDES permits.

(b) The process of developing a watershed improvement plan shall be open and transparent, and shall be conducted consistent with all applicable open meeting laws. A county, city, special district, or combination thereof, shall solicit input from entities representing resource agencies, water agencies, sanitation districts, the environmental community, landowners, home builders, agricultural interests, and business and industry representatives.

(c) Each county, city, special district, or combination thereof shall notify the appropriate regional board of its intention to develop a watershed improvement plan. The regional board may, in its discretion, participate in the preparation of the plan. A watershed improvement plan shall be consistent with the regional 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) A regional board shall review a watershed improvement plan developed pursuant to Section 16101 and approve it if it finds that the proposed watershed improvement plan will facilitate compliance with one or more water quality requirements.

(b) A regional board shall request, from the entity or entities that develop a watershed improvement plan that is approved by the regional board, reimbursement for the regional board's costs to review and oversee the implementation of the plan if nonstate funds are not available to cover the costs of the review and oversight.

~~16102.~~

(c) A regional board may, if it deems appropriate, utilize provisions of approved watershed improvement plans to promote compliance with one or more of the regional board's regulatory plans or programs.

16103. (a) In addition to making use of other financing mechanisms that are available to local agencies to fund watershed improvement plans and plan measures and facilities, a county, city, special district, or combination thereof may 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, and the implementation of a watershed improvement plan that is approved by a regional board; ~~if the plan will facilitate compliance with one or more water quality requirements.~~ Fees imposed pursuant to this section shall be reasonably related to the actual or anticipated past, present, or future adverse effects of the feepayer's activities. "Activities," for purposes of this subdivision, means the operations and existing

1 structures and improvements subject to regulation under an NPDES
2 permit for municipal separate storm sewer systems.

3 (b) A county, city, special district, or combination thereof may
4 plan, design, implement, construct, operate, and maintain controls
5 and facilities to improve water quality, including controls and
6 facilities related to the infiltration, retention and reuse, diversion,
7 interception, filtration, or collection of surface runoff, including
8 urban runoff, stormwater, and other forms of runoff, the treatment
9 of pollutants in runoff or other waters subject to water quality
10 regulatory requirements, the return of diverted and treated waters
11 to receiving water bodies, the enhancement of beneficial uses of
12 waters of the state, or the beneficial use or reuse of diverted waters.

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