

AMENDED IN ASSEMBLY JULY 13, 2009

AMENDED IN ASSEMBLY JUNE 22, 2009

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

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

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

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

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1 statewide plans, regional water quality control plans, total
2 maximum daily loads, and NPDES permits.

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

10 (c) Each county, city, special district, or combination thereof
11 shall notify the appropriate regional board of its intention to
12 develop a watershed improvement plan. The regional board may,
13 in its discretion, participate in the preparation of the plan. A
14 watershed improvement plan shall be consistent with the regional
15 board's water quality control plan.

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

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

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

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

36 (4) A coordinated economic analysis and financing plan that
37 identifies the costs, effectiveness, and benefits of water quality
38 improvements specified in the watershed improvement plan, and,
39 where feasible, incorporates user-based and cost recovery

1 approaches to financing, which place the cost of managing and
2 treating surface runoff pollution on the generators of the pollutants.

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

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

14 16102. (a) A regional board shall review a watershed
15 improvement plan developed pursuant to Section 16101 and
16 approve it if it finds that the proposed watershed improvement
17 plan will facilitate compliance with one or more water quality
18 requirements.

19 (b) A regional board may not approve a proposed watershed
20 improvement plan that includes a geographical area included in
21 an existing approved watershed improvement plan unless the
22 regional board determines that it is infeasible to amend either the
23 proposed watershed improvement plan or the approved watershed
24 improvement plan to achieve the purposes of this chapter.

25 ~~(c) A regional board shall request, from the entity or entities~~
26 ~~that develop a watershed improvement plan that is approved by~~
27 ~~the regional board, reimbursement for the regional board's costs~~

28 (c) *The entity or entities that develop a watershed improvement*
29 *plan that is submitted to the regional board for approval shall*
30 *reimburse the regional board for its costs, including the costs to*
31 *review and oversee the implementation of the plan, if nonstate*
32 *funds are not available to cover the costs of the review and*
33 *oversight.*

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

38 16103. (a) In addition to making use of other financing
39 mechanisms that are available to local agencies to fund watershed
40 improvement plans and plan measures and facilities, a county,

1 city, special district, or combination thereof may impose fees on
2 activities that generate or contribute to runoff, stormwater, or
3 surface runoff pollution, to pay the costs of the preparation of a
4 watershed improvement plan, and the implementation of a
5 watershed improvement plan if all of the following requirements
6 are met:

7 (1) The regional board has approved the watershed improvement
8 plan.

9 (2) The entity or entities that develop the watershed
10 improvement plan make a finding, supported by substantial
11 evidence, that the fee is reasonably related to the cost of mitigating
12 the actual or anticipated past, present, or future adverse effects of
13 the activities of the feepayer. “Activities,” for the purposes of this
14 paragraph, means the operations and existing structures and
15 improvements subject to regulation under an NPDES permit for
16 municipal separate storm sewer systems.

17 (3) The fee is not imposed solely as an incident of property
18 ownership.

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 infiltration, retention and reuse, diversion,
23 interception, filtration, or collection of surface runoff, including
24 urban runoff, stormwater, and other forms of runoff, the treatment
25 of pollutants in runoff or other waters subject to water quality
26 regulatory requirements, the return of diverted and treated waters
27 to receiving water bodies, the enhancement of beneficial uses of
28 waters of the state, or the 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.

31 16104. Nothing in this chapter alters requirements that govern
32 the diversion of water.