

AMENDED IN ASSEMBLY AUGUST 17, 2009

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 to review, and *authorized to 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 certain requirements are met. 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. Chapter 27 (commencing with Section 16100)
2 is added 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, where appropriate, identifying opportunities
20 for stormwater detention, infiltration, use of natural treatment
21 systems, water recycling, reuse, and supply augmentation; and
22 providing programs and measures designed to promote, maintain,

1 or achieve compliance with water quality laws and regulations,
2 including water quality standards and other requirements of
3 statewide plans, regional water quality control plans, total
4 maximum daily loads, and NPDES permits.

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

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

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

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

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

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

38 (4) A coordinated economic analysis and financing plan that
39 identifies the costs, effectiveness, and benefits of water quality
40 improvements specified in the watershed improvement plan, and,

1 where feasible, incorporates user-based and cost recovery
2 approaches to financing, which place the cost of managing and
3 treating surface runoff pollution on the generators of the pollutants.

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

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

15 16102. (a) A regional board shall review, *in accordance with*
16 *the reimbursement requirement described in subdivision (c)*, a
17 watershed improvement plan developed pursuant to Section 16101
18 and *may* approve it if it finds that the proposed watershed
19 improvement plan will facilitate compliance with one or more
20 water quality requirements.

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

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

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

37 16103. (a) In addition to making use of other financing
38 mechanisms that are available to local agencies to fund watershed
39 improvement plans and plan measures and facilities, a county,
40 city, special district, or combination thereof may impose fees on

1 activities that generate or contribute to runoff, stormwater, or
2 surface runoff pollution, to pay the costs of the preparation of a
3 watershed improvement plan, and the implementation of a
4 watershed improvement plan if all of the following requirements
5 are met:

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

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

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

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

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

30 16104. Nothing in this chapter alters requirements that govern
31 the diversion of water.