

AMENDED IN ASSEMBLY AUGUST 31, 2009

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, ~~prescribed components of~~ a watershed improvement plan if they find that the proposed plan will facilitate compliance with ~~one or more~~ water quality requirements. *The entities that develop the plan that is submitted to a regional board for approval would be required to reimburse the regional board for its costs in accordance with a fee schedule adopted by the regional board.* 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

1 existing and future water quality requirements and regulations by,
2 among other things, where appropriate, identifying opportunities
3 for stormwater detention, infiltration, use of natural treatment
4 systems, water recycling, reuse, and supply augmentation; and
5 providing programs and measures designed to promote, maintain,
6 or achieve compliance with water quality laws and regulations,
7 including water quality standards and other requirements of
8 statewide plans, regional water quality control plans, total
9 maximum daily loads, and NPDES permits.

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

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

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

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

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

36 (3) Recommendations for appropriate action by any entity,
37 public or private, to facilitate achievement of, or consistency with,
38 water quality objectives, standards, total maximum daily loads, or
39 other water quality laws, regulations, standards, or requirements,
40 a time schedule for the actions to be taken, and a description of

1 appropriate measurement and monitoring to be undertaken to
2 determine improvement in water quality.

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

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

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

20 16102. (a) A regional board shall review, in accordance with
21 the reimbursement requirement described in subdivision (c), a
22 watershed improvement plan developed pursuant to Section 16101
23 and may approve ~~it if it~~ *the plan, including any appropriate*
24 *conditions to the approval, if the regional board finds that the*
25 *proposed watershed improvement plan will facilitate compliance*
26 *with one or more water quality requirements. A regional board's*
27 *review and approval of the watershed improvement plan shall be*
28 *limited to components described in paragraphs (1), (2), (3), and*
29 *(5) of subdivision (d) of Section 16101.*

30 (b) A regional board may not approve a proposed watershed
31 improvement plan that includes a geographical area included in
32 an existing approved watershed improvement plan unless the
33 regional board determines that it is infeasible to amend either the
34 proposed watershed improvement plan or the approved watershed
35 improvement plan to achieve the purposes of this chapter.

36 (c) The entity or entities that develop a watershed improvement
37 plan that is submitted to the regional board for approval shall
38 reimburse the regional board for its costs, including the costs to
39 review and oversee the implementation of the plan, if nonstate
40 funds are not available to cover the costs of the review and

oversight. *For the purpose of this paragraph, the state board shall adopt a fee schedule by emergency regulation in the manner prescribed in paragraph (2) of subdivision (f) of Section 13260. Fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund established by Section 13260.*

(d) 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.

(e) *Unless a regional board incorporates the provisions of a watershed improvement plan into waste discharge requirements issued to a permittee, the implementation of a watershed improvement plan by a permittee shall not be deemed to be compliance with those waste discharge requirements.*

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 if all of the following requirements are met:

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

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

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

(b) A county, city, special district, or combination thereof may plan, design, implement, construct, operate, and maintain controls and facilities to improve water quality, including controls and facilities related to the infiltration, retention and reuse, diversion, interception, filtration, or collection of surface runoff, including

1 urban runoff, stormwater, and other forms of runoff, the treatment
2 of pollutants in runoff or other waters subject to water quality
3 regulatory requirements, the return of diverted and treated waters
4 to receiving water bodies, the enhancement of beneficial uses of
5 waters of the state, or the beneficial use or reuse of diverted waters.
6 (c) The fees authorized under subdivision (a) may be imposed
7 as user-based or regulatory fees consistent with this chapter.
8 16104. Nothing in this chapter alters requirements that govern
9 the diversion of water.