Senate Bill No. 790

Passed the Senate September 8, 2009

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Secretary of the Senate

Passed the Assembly September 3, 2009

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Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 30916 of the Public Resources Code, and to amend Section 10540 of, and to add Part 2.3 (commencing with Section 10560) to Division 6 of, the Water Code, relating to resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 790, Pavley. Resources: water quality: stormwater resource plans.

(1) The Watershed, Clean Beaches, and Water Quality Act authorizes the Water Resources Control Board, in consultation with the State Coastal Conservancy, to award grants to public agencies and nonprofit organizations for projects designed to restore and protect the water quality and environment of coastal waters, estuaries, bays, and near shore waters, including, among other things, a project to make improvements to, or upgrades or conversions of, existing sewer collection systems and septic systems for the restoration and protection of coastal water quality.

This bill would also authorize grants for projects designed to implement or promote low-impact development for new or existing developments that will contribute to the improvement of water quality or reduce stormwater runoff and for projects designed to implement specified stormwater resource plans.

(2) 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 national pollutant discharge elimination system (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters.

This bill would authorize a city, county, or special district to develop, jointly or individually, stormwater resource plans that meet certain standards. The bill would authorize a regional water management group to coordinate its planning activities to address or incorporate into its plan any stormwater resource planning that is undertaken pursuant to the bill's provisions.

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

SECTION 1. Section 30916 of the Public Resources Code is amended to read:

30916. (a) Upon appropriation by the Legislature, funds provided under this chapter may be used by the board, in consultation with the State Coastal Conservancy, to award grants not to exceed five million dollars ($5,000,000) per project to public agencies and nonprofit organizations for the purposes of this chapter. Grants may be awarded for any of the following projects:

(1) A project designed to improve water quality at public beaches and to make improvements for the purpose of ensuring that coastal waters adjacent to public beaches meet the bacteriological standards set forth in Article 2 (commencing with Section 115875) of Chapter 5 of Part 10 of Division 104 of the Health and Safety Code.

(2) A project to make improvements to, or upgrades or conversions of, existing sewer collection systems and septic systems for the restoration and protection of coastal water quality.

(3) A project designed to implement stormwater and runoff pollution reduction and prevention programs, or for the implementation of best management practices, for the restoration and protection of coastal water quality.

(4) A project designed to implement or promote low-impact development for new or existing developments that will contribute to the improvement of water quality or reduce stormwater runoff.

(5) A project designed to implement a stormwater resource plan prepared pursuant to Part 2.3 (commencing with Section 10560) of Division 6 of the Water Code.

(b) The projects funded pursuant to this chapter shall be consistent with the state's nonpoint source control program, as revised to meet the requirements of Division 20 (commencing with Section 30000), Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990, Section 319 of the federal Clean Water Act (33 U.S.C. Sec. 1329), Division 7 (commencing with Section 13000) of the Water Code, and the California Coastal Commission.

(c) The projects funded pursuant to this chapter shall demonstrate the capability of contributing to sustained, long-term water quality or environmental restoration or protection benefits

for a period of 20 years, address the causes of degradation, rather than the symptoms, and be consistent with water quality and resource protection plans prepared, implemented, or adopted by the board, the applicable regional water quality control board, and the State Coastal Conservancy.

(d) An applicant for funds under this chapter shall be required to submit to the board a monitoring and reporting plan that does all of the following:

(1) Identifies the nonpoint source or sources of pollution to be prevented or reduced by the project.

(2) Describes the baseline water quality or environmental quality to be addressed.

(3) Describes the manner in which the project will be effective in preventing or reducing pollution and in demonstrating the desired environmental results.

(4) Describes the monitoring program, including, but not limited to, the methodology, and the frequency and duration of monitoring.

(e) Upon completion of the project, a recipient of funds under this chapter shall submit a report to the board that summarizes the completed activities and indicates whether the purposes of the project have been met. The report shall include information collected by the recipient in accordance with the project monitoring and reporting plan, including a determination of the effectiveness of the project in preventing or reducing pollution, and the results of the monitoring program. The board shall make the report available to the public, watershed groups, and federal, state, and local agencies.

(f) Not more than 25 percent of a grant may be awarded in advance of actual expenditure.

(g) An applicant for funds under this chapter shall inform the board of any necessary public agency approvals, entitlements, and permits that may be necessary to implement the project. The application shall certify to the board, at the appropriate time, that those approvals, entitlements, and permits have been granted.

(h) Where recovery plans for coho salmon, steelhead trout, or other threatened or endangered aquatic species exist, projects funded under this chapter shall be consistent with those plans and, to the extent feasible, shall seek to implement actions specified in those plans.

(i) The board shall appoint a Clean Beaches Task Force comprised of individuals representing the breadth and diversity of coastal communities. All proposals for funding shall be reviewed by the task force. The task force may recommend projects to the board for funding consideration.

SEC. 2. Section 10540 of the Water Code is amended to read:

10540. (a) A regional water management group may prepare and adopt an integrated regional water management plan in accordance with this part.

(b) A regional water management group may coordinate its planning activities to address or incorporate all or part of any of the following actions of its members into its plan:

(1) Groundwater management planning pursuant to Part 2.75 (commencing with Section 10750) or other specific groundwater management authority.

(2) Urban water management planning pursuant to Part 2.6 (commencing with Section 10610).

(3) The preparation of a water supply assessment required pursuant to Part 2.10 (commencing with Section 10910).

(4) Agricultural water management planning pursuant to Part 2.8 (commencing with Section 10800).

(5) City and county general planning pursuant to Section 65350 of the Government Code.

(6) Stormwater resource planning that is undertaken pursuant to Part 2.3 (commencing with Section 10560).

(7) Other water resource management planning, including flood protection, watershed management planning, and multipurpose program planning.

(c) At a minimum, all plans shall address all of the following:

(1) Protection and improvement of water supply reliability, including identification of feasible agricultural and urban water use efficiency strategies.

(2) Identification and consideration of the drinking water quality of communities within the area of the plan.

(3) Protection and improvement of water quality within the area of the plan, consistent with the relevant basin plan.

(4) Identification of any significant threats to groundwater resources from overdrafting.

(5) Protection, restoration, and improvement of stewardship of aquatic, riparian, and watershed resources within the region.

(6) Protection of groundwater resources from contamination.

(7) Identification and consideration of the water-related needs of disadvantaged communities in the area within the boundaries of the plan.

(d) This section does not obligate a local agency to fund the implementation of any project or program.

SEC. 3. Part 2.3 (commencing with Section 10560) is added to Division 6 of the Water Code, to read:

PART 2.3. STORMWATER RESOURCE PLANNING

10560. This part shall be known and may be cited as "The Stormwater Resource Planning Act."

10561. The Legislature hereby finds and declares all of the following:

(a) In many parts of the state stormwater is a source of surface water and groundwater contamination, contributing to a loss of usable water supplies, and the pollution and impairment of rivers, lakes, streams, and coastal waters.

(b) Improved management of stormwater, including, but not limited to, pollution prevention and source control, can improve water quality and increase water supplies for beneficial uses and the environment.

(c) Most of California's current stormwater drainage systems are designed to capture and convey water away from people and property rather than capturing that water for beneficial uses.

(d) Historical patterns of precipitation are predicted to change and an increasing amount of California's water is predicted to fall not as snow in the mountains, but as rain in other areas of the state. This will likely have a profound and transforming effect on California's hydrologic cycle and much of that water will no longer be captured by California's reservoirs, many of which are located to capture snow melt.

(e) Stormwater, properly managed, can contribute significantly to local water supplies through onsite storage and reuse, or letting it percolate into the ground to recharge groundwater, thereby increasing available supplies of drinking water.

(f) New developments and redevelopments should be designed to be consistent with low-impact development principles to improve the retention, reuse, and percolation of stormwater onsite.

(g) Stormwater can be managed to achieve environmental and societal benefits such as wetland creation, riverside habitats, instream flows, and an increase in urban green space.

(h) Stormwater management through multiobjective projects can achieve additional benefits, including augmenting recreation opportunities for communities, increased tree canopy, reduced urban heat island effect, and improved air quality.

10562. (a) A city, county, or special district, either individually or jointly, may develop a stormwater resource plan pursuant to this part.

(b) Stormwater resource plans shall:

(1) Be developed on a watershed basis.

(2) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits.

(3) Provide for community participation in plan development and implementation.

(4) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits.

(5) Be consistent with all applicable waste discharge permits.

(6) Be consistent with any applicable integrated regional water management plan.

(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a "stormwater resource plan." Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document does not meet the standards of this section, a collection of local and regional plans may constitute a functional equivalent.

(d) Stormwater resource plans shall identify all of the following:

(1) Opportunities to augment local water supply through groundwater recharge or storage for beneficial reuse of stormwater.

(2) Opportunities for source control for both pollution and stormwater runoff volume, onsite and local infiltration, and reuse of stormwater.

(3) Projects to reestablish natural water drainage treatment and infiltration systems, or mimic natural system functions to the maximum extent feasible.

(4) Opportunities to develop or enhance habitat and open space through stormwater management, including wetlands, riverside habitats, parkways, and parks.

(5) Design criteria and best management practices to prevent stormwater pollution and increase effective stormwater management for new and upgraded infrastructure and residential, commercial, industrial, and public development. These design criteria and best management practices shall accomplish all of the following:

(A) Reduce effective impermeability within a watershed by creating permeable surfaces and directing stormwater to permeable surfaces, retention basins, cisterns, and other storage for beneficial reuse.

(B) Increase water storage for beneficial use through a variety of on-site storage techniques.

(C) Increase groundwater supplies through infiltration, where appropriate and feasible.

(D) Support low-impact development for new and upgraded infrastructure and development using low-impact techniques.

(6) Activities that generate or contribute to the pollution of stormwater, or that impair the effective beneficial use of stormwater.

(7) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits.

(8) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.

10563. (a) Nothing in this part interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) Nothing in this part affects requirements imposed under any other provision of law.

10564. For purposes of this part, “low-impact development” means new development or redevelopment projects that employ natural and constructed features that reduce the rate of stormwater runoff, filter out pollutants, facilitate stormwater storage onsite, infiltrate stormwater into the ground to replenish groundwater supplies, or improve the quality of receiving groundwater and surface water.

Approved _____, 2009

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Governor