

AMENDED IN SENATE JUNE 7, 2011
AMENDED IN ASSEMBLY MARCH 25, 2011
AMENDED IN ASSEMBLY MARCH 14, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 275

Introduced by Assembly Member Solorio
(Principal coauthor: Assembly Member Gatto)
(Coauthors: Assembly Members Blumenfield, *Butler*, Carter,
Gordon, Gorell, Jeffries, and Ma)
(Coauthors: Senators Evans and Pavley)

February 7, 2011

An act to amend Section 7027.5 of the Business and Professions Code, and to add Part 2.4 (commencing with Section 10570) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 275, as amended, Solorio. Rainwater Capture Act of 2011.

(1) Under existing law, the State Water Resources Control Board (state 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 city, county, or special district to develop, jointly or individually, stormwater resource plans that meet certain standards.

This bill would enact the Rainwater Capture Act of 2011, which would authorize residential, commercial, and governmental landowners to install, maintain, and operate rain barrel systems, as defined, and

rainwater capture systems, as defined, for specified purposes, provided that the systems comply with specified requirements. *The bill would require a local agency to provide notification to the operator of a public water system, as defined, if the local agency chooses to adopt a permitting program for rainwater capture systems and approves a permit for a rainwater capture system connected to the public water system.*

(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensing and regulation of contractors. Existing law authorizes a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a swimming pool, spa, or hot tub, an outdoor cooking center, or an outdoor fireplace, if certain conditions are met. Under existing law, a violation of these provisions and related provisions of existing law is grounds for disciplinary action.

This bill would additionally authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is used *exclusively* for landscape irrigation. The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

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

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

- 1 SECTION 1. Section 7027.5 of the Business and Professions
- 2 Code is amended to read:
- 3 7027.5. (a) A landscape contractor working within the
- 4 classification for which the license is issued may design systems
- 5 or facilities for work to be performed and supervised by that
- 6 contractor.
- 7 (b) Notwithstanding any other provision of this chapter, a
- 8 landscape contractor working within the classification for which
- 9 the license is issued may enter into a prime contract for the
- 10 construction of any of the following:
- 11 (1) A swimming pool, spa, or hot tub, provided that the
- 12 improvements are included within the landscape project that the

1 landscape contractor is supervising and the construction of any
2 swimming pool, spa, or hot tub is subcontracted to a single licensed
3 contractor holding a Swimming Pool (C-53) classification, as set
4 forth in Section 832.53 of Title 16 of the California Code of
5 Regulations, or performed by the landscape contractor if the
6 landscape contractor also holds a Swimming Pool (C-53)
7 classification. The contractor constructing the swimming pool,
8 spa, or hot tub may subcontract with other appropriately licensed
9 contractors for the completion of individual components of the
10 construction.

11 (2) An outdoor cooking center, provided that the improvements
12 are included within a residential landscape project that the
13 contractor is supervising. For purposes of this subdivision, “outdoor
14 cooking center” means an unenclosed area within a landscape that
15 is used for the cooking or preparation of food or beverages.

16 (3) An outdoor fireplace, provided that it is included within a
17 residential landscape project that the contractor is supervising and
18 is not attached to a dwelling.

19 (4) A rainwater capture system, as defined in Section 10573 of
20 the Water Code, used *exclusively* for landscape irrigation.

21 (c) (1) Work performed in connection with a landscape project
22 specified in paragraph (2), (3), or (4) of subdivision (b) that is
23 outside of the field and scope of activities authorized to be
24 performed under the Landscape Contractor (C-27) classification,
25 as set forth in Section 832.27 of Title 16 of the California Code
26 of Regulations, may only be performed by a landscape contractor
27 if the landscape contractor also either holds an appropriate specialty
28 license classification to perform the work or is licensed as a General
29 Building contractor. If the landscape contractor neither holds an
30 appropriate specialty license classification to perform the work
31 nor is licensed as a General Building contractor, the work shall be
32 performed by a Specialty contractor holding the appropriate license
33 classification or by a General Building contractor performing work
34 in accordance with the requirements of subdivision (b) of Section
35 7057.

36 (2) Notwithstanding paragraph (1), a landscape contractor
37 performing work under the Landscape Contractor (C-27)
38 classification, as set forth in Section 832.27 of Title 16 of the
39 California Code of Regulations, may design and install all exterior
40 components of a rainwater capture system, as defined in Section

1 10573 of the Water Code, that are not a part of, or attached to, a
2 structure.

3 (d) A violation of this section shall be cause for disciplinary
4 action.

5 (e) *Nothing in this section authorizes a landscape contractor*
6 *to engage in or perform activities that require a license pursuant*
7 *to the Professional Engineers Act (Chapter 7 (commencing with*
8 *Section 6700)).*

9 SEC. 2. Part 2.4 (commencing with Section 10570) is added
10 to Division 6 of the Water Code, to read:

11
12 PART 2.4. RAINWATER CAPTURE ACT OF 2011
13

14 10570. This part shall be known, and may be cited, as the
15 Rainwater Capture Act of 2011.

16 10571. The Legislature finds and declares all of the following:

17 (a) As California has grown and developed, the amount of
18 stormwater flowing off of buildings, parking lots, roads, and other
19 impervious surfaces into surface water streams, flood channels,
20 and storm sewers has increased, thereby reducing the volume of
21 water allowed to infiltrate into groundwater aquifers and increasing
22 water and pollution flowing to the ocean and other surface waters.
23 At the same time, recurring droughts and water shortages in
24 California have made local water supply augmentation and water
25 conservation efforts a priority.

26 (b) Historical patterns of precipitation are predicted to change,
27 with two major implications for water supply. First, an increasing
28 amount of California's water is predicted to fall not as snow in the
29 mountains, but as rain in other areas of the state. This will likely
30 have a profound and transforming effect on California's hydrologic
31 cycle and much of that water will no longer be captured by
32 California's reservoirs, many of which are located to capture
33 snowmelt. Second, runoff resulting from snowmelt is predicted to
34 occur progressively earlier in the year, and reservoirs operated for
35 flood control purposes must release water early in the season to
36 protect against later storms, thereby reducing the amount of early
37 season snowmelt that can be stored.

38 (c) Rainwater and stormwater, captured and properly managed,
39 can contribute significantly to local water supplies by infiltrating
40 and recharging groundwater aquifers, thereby increasing available

1 supplies of drinking water. In addition, the onsite capture, storage,
2 and use of rainwater and stormwater for nonpotable uses
3 significantly reduces demand for potable water, contributing to
4 the statutory objective of a 20-percent reduction in urban per capita
5 water use in California by December 31, 2020.

6 (d) Expanding opportunities for rainwater and stormwater
7 capture to augment water supply will require efforts at all levels,
8 from individual landowners to state and local agencies and
9 watershed managers.

10 10572. Nothing in this part shall be construed to do either of
11 the following:

12 (a) Alter or impair any existing rights.

13 (b) Change existing water rights law.

14 (c) *Authorize a landscape contractor to engage in or perform*
15 *activities that require a license pursuant to the Professional*
16 *Engineers Act (Chapter 7 (commencing with Section 6700) of*
17 *Division 3 of the Business and Professions Code).*

18 10573. Solely for the purposes of this part, and unless the
19 context otherwise requires, the following definitions govern the
20 construction of this part:

21 (a) “Developed or developing lands” means lands that have one
22 or more of the characteristics described in subparagraphs (A) to
23 (C), inclusive, of paragraph (4) of subdivision (b) of Section
24 56375.3 of the Government Code.

25 (b) “Rainwater” means precipitation on any public or private
26 parcel that has not entered an offsite storm drain system or channel,
27 a flood control channel, or any other stream channel, and has not
28 previously been put to beneficial use.

29 (c) “Rain barrel system” is a type of rainwater capture system
30 that does not use electricity and is not connected to a pressurized
31 water distribution system for distribution of potable water.

32 (d) “Rainwater capture system” means a facility designed to
33 capture, retain, and store rainwater flowing off of a building,
34 parking lot, or any other manmade, impervious surface, for
35 subsequent onsite use.

36 (e) “Stormwater” means temporary surface water runoff and
37 drainage generated by immediately preceding storms. This
38 definition shall be interpreted consistent with the definition of
39 “stormwater” in Section 122.26 of Title 40 of the Code of Federal
40 Regulations, as that section may be amended.

(f) “Stormwater capture system” means a facility that is operated by a public agency and designed to capture and retain stormwater flowing upon the public right-of-way, or through a public stormwater management system or a public stormwater drainage system, for subsequent use.

10574. (a) Any residential, commercial, or governmental landowner may install, maintain, and operate any of the following systems:

(1) A rain barrel system, if the system is used only to supply water for outdoor, nonpotable uses and is used in compliance with all manufacturer instructions.

(2) A rainwater capture system for subsequent outdoor nonpotable use or infiltration into groundwater.

(3) A rainwater capture system for subsequent indoor nonpotable use, if all of the following conditions are met:

(A) The system includes supplemental filtration, a disinfection device, or other process or device that performs an equivalent function, as determined by the local agency having jurisdiction. For purposes of this subparagraph, “disinfection device” includes, but is not limited to, a pressure filter, chlorination, or ultraviolet radiation.

(B) If the system is connected to receive water from a potable source, the system is equipped with a device that is adequate to prevent backflow from the rainwater capture system into the property’s potable water supply system or into the public potable water distribution system that supplies potable water to the property.

(C) The local agency with jurisdiction over the enforcement of building standards agrees to issue a permit for the system and inspects the installation of the system before the system is operated, and the landowner complies with the conditions and requirements imposed by the permit.

(D) The system complies with the requirements contained in the 2010 Green Plumbing and Mechanical Code Supplement, published by the International Association of Plumbing and Mechanical Officials (IAPMO), unless the California Building Standards Commission ~~and the Department of Housing and Community Development adopt~~ *adopts* superseding building standards for rainwater capture systems for indoor nonpotable use.

1 (b) A system authorized pursuant to subdivision (a) may only
2 be used on the landowner's property for the capture of rainwater
3 on developed or developing lands.

4 (c) A rainwater capture system that is a part of, or attached to,
5 a structure regulated by the California Building Standards Code
6 shall be installed and used consistent with applicable requirements
7 of the California Building Standards Code, ~~including building~~
8 ~~drainage requirements.~~

9 (d) (1) Except as provided in paragraph (3), if a local agency
10 has a program to promote rainwater capture or stormwater capture
11 and use, a landowner installing, maintaining, or operating a
12 rainwater capture system pursuant to this section shall comply
13 with applicable requirements of the program, including, but not
14 limited to, a stormwater resource plan adopted pursuant to Part
15 2.3 (commencing with Section 10560).

16 (2) (A) Except as provided in paragraph (3), this section shall
17 not be construed to impose a duty on, or impair the authority of,
18 a local agency to establish or implement a program for rainwater
19 capture or stormwater capture in its jurisdiction.

20 (B) *If a local agency chooses to develop rainwater capture*
21 *program requirements, the local agency may consider any of the*
22 *following:*

23 (i) *The California Building Standards Code (Title 24 of the*
24 *California Code of Regulations), including, but not limited to, the*
25 *California Green Building Standards Code (Part 11 (commencing*
26 *with Section 101.1) of Title 24 of the California Code of*
27 *Regulations).*

28 (ii) *Nationally recognized standards.*

29 (iii) *Provisions in the California Building Standards Code (Title*
30 *24 of the California Code of Regulations) allowing for the use of*
31 *alternative means and methods of construction when a proposed*
32 *system, method, or alternative performance-based design is not*
33 *prescriptively referenced in the approved codes or standards in*
34 *clauses (i) and (ii).*

35 (3) (A) Except as provided in subparagraph (B), a landowner
36 shall not be required to obtain any permit or other authorization
37 from a local public agency as a condition of installing, maintaining,
38 or operating a rain barrel system pursuant to paragraph (1) of
39 subdivision (a).

1 (B) If installation of a rain barrel system requires disconnection
2 of a downspout from the sewer system, the local public agency
3 may require a permit or authorization for proper disconnection
4 and capping of the sewer connection.

5 (4) *If a local agency chooses to adopt a permitting program for*
6 *rainwater capture systems and the local agency approves a permit*
7 *for a rainwater capture system connected to a public water system,*
8 *as defined in Section 116275 of the Health and Safety Code, the*
9 *local agency shall notify the operator of the public water system*
10 *of the permit approval.*

11 (e) A rainwater capture system installed pursuant to this section
12 shall include a method to prevent breeding of mosquitoes, as
13 provided in the 2010 Green Plumbing and Mechanical Code
14 Supplement, published by the International Association of
15 Plumbing and Mechanical Officials (IAPMO), or the California
16 Plumbing Code (Part 5 of Title 24 of the California Code of
17 Regulations), as it may be amended.

18 10575. (a) It is the intent of the Legislature that the use of
19 rainwater for nonpotable uses should not be constrained by
20 standards for drinking water or recycled water in Title 22 of the
21 California Code of Regulations, but shall fully comply with water
22 quality requirements pursuant to the Porter-Cologne Water Quality
23 Control Act (Division 7 (commencing with Section 13000)).

24 (b) Notwithstanding subdivision (a), this part does not affect
25 any additional state, regional, or local requirements for the
26 protection of groundwater quality from contamination resulting
27 from stormwater drainage.