Assembly Bill No. 1572

CHAPTER 849

An act to amend Sections 10540, 10608.12, and 10608.22 of, to add Section 110 to, and to add Chapter 2.5 (commencing with Section 10608.14) to Part 2.55 of Division 6 of, the Water Code, relating to water.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1572, Friedman. Potable water: nonfunctional turf.

(1) Existing law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water.

This bill would make legislative findings and declarations concerning water use, including that the use of potable water to irrigate nonfunctional turf is wasteful and incompatible with state policy relating to climate change, water conservation, and reduced reliance on the Sacramento-San Joaquin Delta ecosystem. The bill would direct all appropriate state agencies to encourage and support the elimination of irrigation of nonfunctional turf with potable water.

(2) Existing law, the Integrated Regional Water Management Planning Act, authorizes a regional water management group to prepare and adopt an integrated regional water management plan in accordance with specified requirements, including, among other things, the identification and consideration of the water-related needs of disadvantaged communities in the area within the boundaries of the plan.

This bill would additionally require an integrated regional water management plan to address the identification and consideration of the water-related needs of owners and occupants of affordable housing, including the removal and replacement of nonfunctional turf.

(3) Existing law provides various findings and declarations of the Legislature related to sustainable water use and demand reduction. Existing law imposes various water use reduction requirements that apply to urban retail water suppliers, including a requirement that the state achieve a 20% reduction in urban per capita water use by December 31, 2020.

This bill would prohibit the use of potable water, as defined, for the irrigation of nonfunctional turf located on commercial, industrial, and institutional properties, other than a cemetery, and on properties of homeowners' associations, common interest developments, and community service organizations or similar entities, as specified. The bill would authorize the State Water Resources Control Board to create a form for compliance certification and would require owners of covered properties to certify their compliance, as specified. The bill would authorize a public water system, city, county, or city and county to enforce these provisions, as specified. The bill would require the Governor's Office of Business and Economic Development to support small and minority-owned businesses that provide services that advance compliance with these provisions.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 110 is added to the Water Code, to read:

110. (a) The Legislature hereby finds and declares all of the following:

(1) The use of potable water to irrigate nonfunctional turf is wasteful and incompatible with state policy relating to climate change, water conservation, and reduced reliance on the Sacramento-San Joaquin Delta ecosystem.

(2) The Governor reported in August 2022 that climate change will bring significant enduring reductions in California's water supply and that the state must take steps to respond to this reality.

(3) The State of Nevada enacted AB 356 in 2021 to prohibit the use of Colorado River water to irrigate nonfunctional turf on all properties except single-family residences by January 1, 2027.

(b) It is the intent of the Legislature that the irrigation of grasses for agricultural production shall not be limited by requirements to eliminate the use of potable water to irrigate nonfunctional turf.

(c) The Legislature hereby directs all appropriate state agencies to encourage and support the elimination of irrigation of nonfunctional turf with potable water.

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), groundwater sustainability planning pursuant to Part 2.74 (commencing with Section 10720), 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 and owners and occupants of affordable housing, including the removal and replacement of nonfunctional turf, as defined in Section 10608.12, 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. Section 10608.12 of the Water Code is amended to read:

10608.12. Unless the context otherwise requires, the following definitions govern the construction of this part:

(a) “Affordable housing” has the same meaning as defined in Section 34191.30 of the Health and Safety Code.

(b) “Agricultural water supplier” means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. “Agricultural water supplier” includes a supplier or contractor for water, regardless of the basis of right, that distributes or sells water for ultimate resale to customers. “Agricultural water supplier” does not include the department.

(c) “Base daily per capita water use” means any of the following:

(1) The urban retail water supplier’s estimate of its average gross water use, reported in gallons per capita per day and calculated over a continuous 10-year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

(2) For an urban retail water supplier that meets at least 10 percent of its 2008 measured retail water demand through recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier, the urban retail water supplier may extend the calculation described in paragraph (1) up to an additional five years to a maximum of a continuous 15-year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

(3) For the purposes of Section 10608.22, the urban retail water supplier’s estimate of its average gross water use, reported in gallons per capita per day and calculated over a continuous five-year period ending no earlier than December 31, 2007, and no later than December 31, 2010.

(d) “Baseline commercial, industrial, and institutional water use” means an urban retail water supplier’s base daily per capita water use for commercial, industrial, and institutional users.

(e) “CII water use” means water used by commercial water users, industrial water users, institutional water users, and large landscape water users.

(f) “Commercial water user” means a water user that provides or distributes a product or service.

(g) “Common area” means that portion of a common interest development or of a property owned or managed by a homeowners’ association or a community service organization or similar entity that is not assigned or allocated to the exclusive use of the occupants of an individual dwelling unit within the property.

(h) “Common interest development” has the same meaning as in Section 4100 of the Civil Code.

(i) “Community service organization or similar entity” has the same meaning as in Section 4110 of the Civil Code.

(j) “Community space” means an area designated by a property owner or a governmental agency to accommodate human foot traffic for civic, ceremonial, or other community events or social gatherings.

(k) “Compliance daily per capita water use” means the gross water use during the final year of the reporting period, reported in gallons per capita per day.

(l) “Disadvantaged community” means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(m) “Functional turf” means a ground cover surface of turf located in a recreational use area or community space. Turf enclosed by fencing or other barriers to permanently preclude human access for recreation or assembly is not functional turf.

(n) “Gross water use” means the total volume of water, whether treated or untreated, entering the distribution system of an urban retail water supplier, excluding all of the following:

(1) Recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier.

(2) The net volume of water that the urban retail water supplier places into long-term storage.

(3) The volume of water the urban retail water supplier conveys for use by another urban water supplier.

(4) The volume of water delivered for agricultural use, except as otherwise provided in subdivision (f) of Section 10608.24.

(o) “Homeowners’ association” means an “association” as defined in Section 4080 of the Civil Code.

(p) “Industrial water user” means a water user that is primarily a manufacturer or processor of materials as defined by the North American Industry Classification System code sectors 31 to 33, inclusive, or an entity that is a water user primarily engaged in research and development.

(q) “Institutional water user” means a water user dedicated to public service. This type of user includes, among other users, higher education institutions, schools, courts, churches, hospitals, government facilities, and nonprofit research institutions.

(r) “Interim urban water use target” means the midpoint between the urban retail water supplier’s base daily per capita water use and the urban retail water supplier’s urban water use target for 2020.

(s) “Large landscape” means a nonresidential landscape as described in the performance measures for CII water use adopted pursuant to Section 10609.10.

(t) “Locally cost effective” means that the present value of the local benefits of implementing an agricultural efficiency water management practice is greater than or equal to the present value of the local cost of implementing that measure.

(u) “Nonfunctional turf” means any turf that is not functional turf, and includes turf located within street rights-of-way and parking lots.

(v) “Performance measures” means actions to be taken by urban retail water suppliers that will result in increased water use efficiency by CII water users. Performance measures may include, but are not limited to, educating CII water users on best management practices, conducting water use audits, and preparing water management plans. Performance measures do not include process water.

(w) “Potable reuse” means direct potable reuse, indirect potable reuse for groundwater recharge, and reservoir water augmentation as those terms are defined in Section 13561.

(x) “Potable water” means water that is suitable for human consumption.

(y) “Process water” means water used by industrial water users for producing a product or product content or water used for research and development. Process water includes, but is not limited to, continuous manufacturing processes, and water used for testing, cleaning, and maintaining equipment. Water used to cool machinery or buildings used in the manufacturing process or necessary to maintain product quality or chemical characteristics for product manufacturing or control rooms, data centers, laboratories, clean rooms, and other industrial facility units that are integral to the manufacturing or research and development process is process water. Water used in the manufacturing process that is necessary for complying with local, state, and federal health and safety laws, and is not incidental water, is process water. Process water does not mean incidental water uses.

(z) “Public water system” has the same meaning as defined in Section 116275 of the Health and Safety Code.

(aa) “Recreational use area” means an area designated by a property owner or a governmental agency to accommodate human foot traffic for recreation, including, but not limited to, sports fields, golf courses, playgrounds, picnic grounds, or pet exercise areas. This recreation may be either formal or informal.

(ab) “Recycled water” means recycled water, as defined in subdivision (n) of Section 13050.

(ac) “Regional water resources management” means sources of supply resulting from watershed-based planning for sustainable local water reliability or any of the following alternative sources of water:

(1) The capture and reuse of stormwater or rainwater.

(2) The use of recycled water.

(3) The desalination of brackish groundwater.

(4) The conjunctive use of surface water and groundwater in a manner that is consistent with the safe yield of the groundwater basin.

(ad) “Reporting period” means the years for which an urban retail water supplier reports compliance with the urban water use targets.

(ae) “Turf” has the same meaning as defined in Section 491 of Title 23 of the California Code of Regulations.

(af) “Urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

(ag) “Urban water supplier” has the same meaning as defined in Section 10617.

(ah) “Urban water use objective” means an estimate of aggregate efficient water use for the previous year based on adopted water use efficiency standards and local service area characteristics for that year, as described in

Section 10609.20.

(ai) "Urban water use target" means the urban retail water supplier's targeted future daily per capita water use.

(aj) "Urban wholesale water supplier" means a water supplier, either publicly or privately owned, that provides more than 3,000 acre-feet of water annually at wholesale for potable municipal purposes.

SEC. 4. Chapter 2.5 (commencing with Section 10608.14) is added to Part 2.55 of Division 6 of the Water Code, to read:

CHAPTER 2.5. Nonfunctional Turf

10608.14. (a) The use of potable water for the irrigation of nonfunctional turf located on commercial, industrial, and institutional properties, other than a cemetery, and on properties of homeowners' associations, common interest developments, and community service organizations or similar entities is prohibited as of the following dates:

(1) All properties owned by the Department of General Services, beginning January 1, 2027.

(2) All properties owned by local governments, local or regional public agencies, and public water systems, except those specified in paragraph (5), beginning January 1, 2027.

(3) All other institutional properties and all commercial and industrial properties, beginning January 1, 2028.

(4) All common areas of properties of homeowners' associations, common interest developments, and community service organizations or similar entities, beginning January 1, 2029.

(5) All properties owned by local governments, local public agencies, and public water systems in a disadvantaged community, beginning January 1, 2031, or the date upon which a state funding source is made available to fund conversion of nonfunctional turf on these properties to climate-appropriate landscapes, whichever is later.

(b) Notwithstanding subdivision (a), the use of potable water is not prohibited by this section to the extent necessary to ensure the health of trees and other perennial nonturf plantings, or to the extent necessary to address an immediate health and safety need.

(c) The board may, upon a showing of good cause for reasons including economic hardship, critical business need, and potential impacts to human health or safety, postpone a compliance deadline in subdivision (a) by up to three years for certain persons, institutions, and businesses, and may create a form to be used for compliance certification to the board by property owners.

(d) Public water systems shall, by no later than January 1, 2027, revise their regulations, ordinances, or policies governing water service to include the requirements of subdivisions (a) and (b), as revised by the board pursuant to subdivision (c), and shall communicate the requirements to their customers on or before that date.

(e) (1) An owner of commercial, industrial, or institutional property with more than 5,000 square feet of irrigated area other than a cemetery shall certify to the board, commencing June 30, 2030, and every three years thereafter through 2039, that their property is in compliance with the requirements of this chapter.

(2) An owner of a property with more than 5,000 square feet of irrigated common area that is a homeowners' association, common interest development, or community service organization or similar entity shall certify to the board, commencing June 30, 2031, and every three years thereafter through 2040, that their property is in compliance with the requirements of this chapter.

(f) Noncompliance by a person or entity with this chapter or regulations adopted thereunder shall be subject to civil liability and penalties set forth in Section 1846, or to civil liability and penalties imposed by an urban retail

water supplier pursuant to a locally adopted ordinance or policy.

(g) (1) A public water system, city, county, or city and county may enforce the provisions of this chapter.

(2) To avoid duplication of enforcement, any entity identified in paragraph (1) that is not a retail public water system shall notify the retail public water system 30 days prior to enforcement of the provisions of this chapter against a property served by such system.

(3) Nothing in paragraph (2) shall preclude enforcement by any entity identified in paragraph (1) once adequate notice is given.

(h) The department shall, when using funds appropriated for water conservation for turf replacement, prioritize financial assistance for nonfunctional turf replacement to public water systems serving disadvantaged communities and to owners of affordable housing.

(i) The department shall utilize the saveourwater.com internet website and outreach campaign to provide information and resources on converting nonfunctional turf to native vegetation.

(j) The Governor’s Office of Business and Economic Development shall support small and minority-owned businesses that provide services that advance compliance with this chapter.

SEC. 5. Section 10608.22 of the Water Code is amended to read:

10608.22. Notwithstanding the method adopted by an urban retail water supplier pursuant to Section 10608.20, an urban retail water supplier’s per capita daily water use reduction shall be no less than 5 percent of base daily per capita water use as defined in paragraph (3) of subdivision (c) of Section 10608.12. This section does not apply to an urban retail water supplier with a base daily per capita water use at or below 100 gallons per capita per day.