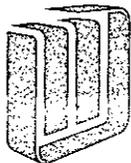


APR 14 1992

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MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Loren E. Duff
EXECUTIVE SECRETARY

March 30, 1992

(Executive Comm.--Information)

To: Board of Directors (Special Comm. on Legislation--Information)

From: General Manager

Subject: Senate Bill 1224 (Killea-San Diego County)--Amended Bill
Mandating Sales of Only Low-Flow Toilets and Urinals

Report

Your Board took a support position on SB 1224 at its meeting of May 14, 1991. In its form as then presented to your Board, the bill would have required all transferors of real property commencing January 1, 1993 to certify, prior to transfer, that plumbing retrofit and conservation devices had been installed prior to sale. It provided civil remedies for failure to comply and several notices provisions.

SB 1224 has now been completely rewritten and language substituted which mandates that commencing January 1, 1994 only 1.6 gallon toilets and urinals can be sold or installed in this state. Noncomplying appliances could be sold only under very limited circumstances and could be returned with full refund if their installation is prohibited by local ordinance. The newly rewritten SB 1224 also provides for notice to customers of these state-mandated requirements.

While SB 1224 has been significantly altered, the new provisions and particularly the forbidding of sale of high-flow appliances clearly merits support by Metropolitan. Implementation of this bill could make a significant contribution to water conservation over the next several decades. The District will, therefore, continue its support of SB 1224.

Board Committee Assignments

This letter is referred for information to:

The Executive Committee because it involves legislation which might affect the District pursuant to Administrative Code Section 2417(a); and

The Special Committee on Legislation because it involves a legislative matter that may affect the District pursuant to Administrative Code Section 2581(a).

Recommendation

For information only.


Carl Boronkay

AMENDED IN SENATE JANUARY 27, 1992

AMENDED IN SENATE JUNE 3, 1991

AMENDED IN SENATE MAY 8, 1991

AMENDED IN SENATE APRIL 29, 1991

AMENDED IN SENATE APRIL 11, 1991

SENATE BILL

No. 1224

Introduced by Senator Killea
(Coauthor: Assembly Member Isenberg)

March 8, 1991

An act to amend Section 1102.6 of the Civil Code, and to add Chapter 2.5 (commencing with Section 17920) to Part 1.5 of Division 13 of add Section 17921.4 to the Health and Safety Code, relating to conservation.

LEGISLATIVE COUNSEL'S DIGEST

— SB 1224, as amended, Killea. Conservation: devices water closets.

(1) Existing law, known as the State Housing Law, generally governs the regulation of buildings used for human habitation. Existing law requires, with certain exceptions, all buildings, as defined for the purposes of the State Housing Law, which are constructed after January 1, 1983, to use certain water conservation water closets, as defined, and to use urinals that use less than an average of 1.5 gallons per flush, as specified.

This bill would require that, on and after January 1, 1994, all water closets sold or installed in this state shall be water closets and associated flushometer valves, if any, which use no more than 1.6 gallons per flush and which meet specified performance standards of the American Society of Mechanical Engineers. The bill would exempt from these

requirements situations in which the installation of water closets meeting these standards would require modifications to plumbing system components located beneath a finished wall or surface or would require substantial modification of the existing plumbing system of a home or building which has been identified as a historical site, as specified.

The bill would require every retail seller of any non-ultra-low flush water closet or urinal, as defined, to disclose, as specified, that the State of California has adopted a law prohibiting the installation of non-ultra-low flush water closets and urinals, except in the event of specified conditions. The bill would require the retailer to require the purchaser to sign a statement evidencing receipt of this disclosure. The bill would authorize the purchaser of any non-ultra-low flush appliance to return the appliance for a full refund from the seller for 30 days from the date of purchase if the purchaser determines that installation of the appliance at the purchaser's premises is prohibited.

Because violations of the State Housing Law are punishable as misdemeanors, this bill would impose a state-mandated local program by creating new crimes.

This bill would provide that its provisions shall not be construed to preempt a specified statute or any actions of local government entities which prescribe conservation requirements that shall result in greater savings of water or energy than would result under this bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Existing law requires sellers of real property to disclose the existence of various items to the buyer, but does not require disclosure with respect to, and does not require the installation of, water conservation devices in connection with the transfer of real property.

This bill would require those disclosures to include information with respect to water conservation devices.

The bill would require, commencing January 1, 1993, that

transferors of residential, commercial, or industrial property using water in showers, lavatory and sink faucets, urinals, residential reverse osmosis systems, or water closets, deliver to the transferee, as soon as practicable prior to the transfer of title, a written statement that conservation devices, as specified, are installed in all fixtures in the property, with specified exceptions.

The bill would make any transferor who fails to comply with these requirements subject to specified civil damages and would prescribe related matters.

The bill would require any real estate agent, broker, or salesperson involved in the transfer of title to give notice to the transferor and the transferee of the requirements of the bill prior to the transfer of title.

The bill would authorize the Department of Housing and Community Development to suspend the above requirements, as prescribed. During the suspension, the transferor of those properties would be required to deliver a specified written statement to the transferee.

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

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

- 1 SECTION 1. Section 1102.6 of the Civil Code is
- 2 SECTION 1. Section 17921.4 is added to the Health
- 3 and Safety Code, to read:
- 4 17921.4. (a) On and after January 1, 1994, all water
- 5 closets sold or installed in this state shall be water closets
- 6 and associated flushometer valves, if any, which use no
- 7 more than 1.6 gallons per flush and which meet
- 8 performance standards established by American Society
- 9 of Mechanical Engineers Standard A112.19.6, and urinals
- 10 and associated flushometer valves, if any, which use no
- 11 more than one gallon per flush and which meet
- 12 performance standards established by American Society
- 13 of Mechanical Engineers Standard A112.19.6.
- 14 (b) Water closets and urinals which do not meet the
- 15 standards referenced in subdivision (a) may be sold for
- 16 use only under either of the following circumstances:

1 (1) Installation of the water closet or urinal to comply
2 with the standards referenced in subdivision (a) would
3 require modifications to plumbing system components
4 located beneath a finished wall or surface.

5 (2) The non-ultra-low flush appliance and associated
6 flushometer valve would be installed in a home or
7 building which has been identified by a local, state, or
8 federal government entity as a historical site, and
9 installation of a water closet or urinal to comply with the
10 standards referenced in subdivision (a) would require
11 substantial modification of the existing plumbing system.

12 (c) Every retail seller of any non-ultra-low flush water
13 closet or urinal and associated flushometer valve
14 appliance shall disclose, in writing, to the purchaser of
15 such an appliance for installation at the purchaser's
16 premises that the State of California has adopted a law
17 prohibiting the installation of non-ultra-low flush water
18 closets and urinals, except as provided in subdivision (b).
19 Every retail seller shall require the purchaser to sign a
20 statement evidencing receipt of the disclosure required
21 by this subdivision.

22 (d) No non-ultra-low flush water closet or urinal and
23 associated flushometer valve appliance shall be sold for
24 installation or installed without a tag or sticker affixed to
25 the exterior of the appliance and to the exterior of the
26 packaging in which the appliance is sold, stating the
27 following in at least 12-point type:

28 **NOTICE:** The State of California has adopted a law
29 prohibiting the installation of non-ultra-low flush water
30 closets and urinals in order to promote water
31 conservation. Certain exceptions may apply. Check with
32 your water supplier before installing this appliance.

33 (e) A purchaser of a non-ultra-low flush appliance
34 shall have the right to return the appliance for a full
35 refund from the seller for 30 days from the date of
36 purchase if the purchaser determines that installation of
37 the appliance at the purchaser's premises is prohibited.

38 (f) This section shall not be construed to preempt any
39 provision of Section 17921.3 or any actions of cities,
40 counties, cities and counties, or districts which prescribe

1 conservation requirements that shall result in greater
2 savings of water or energy than would result under this
3 section.

4 (g) As used in this section:

5 (1) "Appliance" shall include, but not be limited to,
6 urinals and water closets.

7 (2) "Non-ultra-low flush appliance," "non-ultra-low
8 flush urinal," and "non-ultra-low flush water closet" shall
9 refer to devices which do not meet the standards
10 referenced in subdivision (a).

11 SEC. 2. No reimbursement is required by this act
12 pursuant to Section 6 of Article XIII B of the California
13 Constitution because the only costs which may be
14 incurred by a local agency or school district will be
15 incurred because this act creates a new crime or
16 infraction, changes the definition of a crime or infraction,
17 changes the penalty for a crime or infraction, or
18 eliminates a crime or infraction. Notwithstanding Section
19 17580 of the Government Code, unless otherwise
20 specified in this act, the provisions of this act shall become
21 operative on the same date that the act takes effect
22 pursuant to the California Constitution.

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate, June 3, 1991 (J.R. 11).**