

- **Board of Directors**
Communications, Outreach and Legislation Committee

April 9, 2002 Board Meeting

9-2

Subject

Proposed Amendments to AB 2734 (Pavley) related to water conservation

Description

The board discussed this legislation last month ([Attachment 1](#), text of AB 2734). The board instructed staff to pursue amendments to:

- clarify some provisions in the bill, and
- modify specific provisions to complement existing water conservation programs.

Staff has been working with the member agencies, Assemblywoman Pavley's office, and others to amend AB 2734 pursuant to the board's guidance. There have been three conference discussions with the member agency legislative staff and one meeting with the Member Agency Legislative Workgroup. The author's April 2 amendments to the bill address many of the issues that were discussed by board members last month and/or have been suggested by member agencies. Additional discussions are taking place with the member agencies and others, including Assemblywoman Pavley's office and other stakeholders, to develop additional refinements to the bill.

April 2 Amendments

- Clarifying that local governments are responsible for enacting and implementing landscape ordinances and that the water service providers will work with local governments, as requested, to assist in the development of compliance plans.
- Including customer incentives and technical assistance as additional mechanisms, which can be used by local governments and water suppliers to encourage customer compliance with the landscape ordinances.
- Providing that DWR offer technical assistance and guidance to local planning agencies as they review and update local ordinances rather than determining the adequacy of those ordinances.
- Providing priority consideration for funding from Proposition 13, CALFED, and the California Infrastructure and Economic Bank for agencies that have implemented water use efficiency measures rather than limiting drought assistance.
- Providing a mechanism for the municipalities to be reimbursed for any decrease in sales tax revenue related to a statewide sales tax exemption on efficient clothes washers and prohibiting implementation of this provision until such a mechanism is in place.
- Removing the Best Management Practices certification provision.

As mentioned above, additional refinements are being discussed. One of those refinements is clarification that the dual metering requirement does not include individual residential housing, but only commercial properties and common green areas statewide.

These amendments are consistent with the board's current adopted policy principles and the Memorandum of Understanding for Urban Conservation Best Management Practices. In addition, they would add provisions that would improve the existing AB 325 by providing additional implementation mechanisms, including local

incentives; recognizing those water suppliers that have implemented water use efficiency programs; and clarifying the technical assistance role of DWR.

Policy

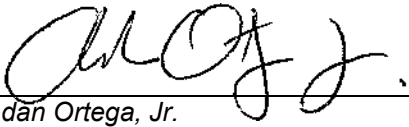
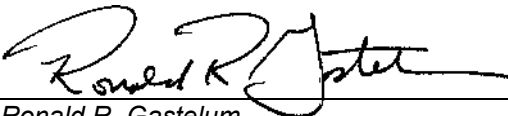
Reference Board Letter 9-10, approved at March 12, 2002 meeting to support AB 2734, if amended.

By minute item 40121, the board at its March 9, 1993 meeting, adopted a landscape conservation program including support for implementation of AB 325.

By minute item 42820, the board at its February 10, 1998 meeting, adopted the Action Principles for CALFED Water Use Efficiency Action Program,

Fiscal Impact

None.

	04/05/02
Adan Ortega, Jr. Vice President, External Affairs	<i>Date</i>
	04/05/02
Ronald R. Gastelum Chief Executive Officer	<i>Date</i>

Attachment 1 -- AB 2734 (Pavley)

Attachment 2 – Conservation Landscape Program Board Letter

Attachment 3 – CALFED Water Use Efficiency Principles

AMENDED IN ASSEMBLY APRIL 2, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2734

Introduced by Assembly Member Pavley

February 22, 2002

An act to amend Section 1102.6 of the Civil Code, to amend Section 65592 of, and to add Sections 65591.7, 65600.1, 65600.2, 65600.3, 65600.4, and 65600.5 to, the Government Code, to add Chapter 2.5 (commencing with Section 17929) to Part 1.5 of Division 13 of the Health and Safety Code, and to add *and repeal* Section 6356.4 ~~to~~ of the Revenue and Taxation Code, relating to conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2734, as amended, Pavley. Conservation.

(1) 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 on and after July 1, 2004, that transferors of commercial or industrial property and, on and after July 1, 2005, every transfer of residential property using water in urinals, ~~water closets~~ *toilets*, or showerheads, or any combination of these devices, deliver to the transferee, as soon as practicable prior to the transfer of title, a written statement that conservation devices are installed in all fixtures in the property, with specified exceptions.

The bill would make a violation of that requirement, or the provision of confirmation of compliance if the devices have not been so installed, an infraction. The bill would thereby impose a state-mandated local program by creating a new crime.

The bill would make any transferor who fails to comply with these requirements subject to civil damages.

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

The bill would provide that a transfer is not invalidated on the basis of a failure to comply with the described provisions.

(2) Under the Water Conservation in Landscaping Act (*act*), the Department of Water Resources was required to adopt a model local water efficient landscape ordinance that each city and county was authorized to adopt.

This bill would *prescribe the application of that act and would* require the department, not later than January 1, 2004, to adopt an update to the model local water efficient landscape ordinance with described revisions and to adopt related guidelines and, not later than January 31, 2004, to distribute these documents.

The bill would provide for each city or county by January 1, 2005, to adopt and enforce this model ordinance or adopt its own *new or* updated ordinance that has been determined by the department to be ~~consistent with and equivalent to~~ *at least as effective as* the updated model ordinance, ~~the~~. *The bill would make cities or counties that fail to comply with these requirements by January 1, 2005, ineligible July 1, 2004, eligible for priority consideration by the California Infrastructure and Economic Development Bank and priority consideration to receive specific state bond funds.*

Because this requirement would increase the level of service imposed on cities and counties, this bill would impose a state-mandated local program.

(3) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax.

This bill would additionally exempt from that tax clothes washers that are energy efficient, as defined. ~~The bill would provide that, notwithstanding an existing provision of law, the state may not~~



~~reimburse any local agency for sales and use taxes lost pursuant to the exemption. The bill would provide that the exemption is only operative if a described resource bond measure is approved by the voters and would be inoperative during that period for which the Secretary of Resources finds and declares that substantial customer incentives, as defined and described, are not being offered by public utilities or water purveyors, or both.~~

~~These sales tax provisions would be repealed on January 1, 2007.~~

~~(4) The bill would require the State Water Resources Control Board by February 28, 2003, to submit to the Legislature a progress report regarding the development of a framework and process to certify the implementation of best management practices for urban water conservation by urban water agencies.~~

~~(5) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Adequate water supply reliability for all uses is essential to
4 the future economic and environmental health of California.

5 (b) Developing environmentally sound strategies to meet
6 future water supply and wastewater treatment needs is key to
7 protecting and restoring aquatic resources in California.

8 (c) There is a pressing need to address water supply reliability
9 issues raised by growing urban areas.



- 1 (d) Economic analysis by urban water agencies and the goals
2 and objectives of the CALFED Bay-Delta Program Record of
3 Decision, dated August 28, 2000, have identified urban water
4 conservation as a cost-effective approach to addressing water
5 supply needs.
- 6 (e) The CALFED Record of Decision calls for an ambitious
7 statewide urban water use efficiency program, above and beyond
8 the implementation of current best management practices for
9 water use efficiency, and includes linkages that ensure balanced
10 implementation of the 12 CALFED program elements in the four
11 problem areas.
- 12 (f) There are many water conservation practices that produce
13 significant energy and other resource savings that should be
14 encouraged as a matter of state policy.
- 15 (g) During the 10 years since the signing of the “Memorandum
16 of Understanding Regarding Urban Water Conservation in
17 California,” many urban water and wastewater treatment agencies
18 have gained valuable experience that can be applied to produce
19 significant statewide savings of water, energy, and associated
20 infrastructure costs. This experience indicates a need to regularly
21 revise and update water conservation methodologies and
22 practices.
- 23 ~~SEC. 2. Section 1102.6 of the Civil Code is amended to read:~~
24 *SEC. 2. Section 1102.6 of the Civil Code is amended to read:*
25 1102.6. The disclosures required by this article pertaining to
26 the property proposed to be transferred are set forth in, and shall
27 be made on a copy of, the following disclosure form:



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for Real Estate Transfer Disclosure Statement

as printed on pages 9 to 13 of Chapter 926, 1996 Statutes.



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1 ~~1102.6.—The disclosures required by this article pertaining to~~
2 ~~the property proposed to be transferred are set forth in, and shall~~
3 ~~be made on a copy of, the following disclosure form:~~



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1 SEC. 3. *Section 65591.7 is added to the Government Code, to*
2 *read:*

3 *65591.7. (a) Except as provided in subdivision (b), this*
4 *article shall apply to all of the following:*

5 *(1) All new and rehabilitated landscaping for public agency*
6 *projects and private developments that require a permit.*

7 *(2) Developer-installed landscaping in single-family and*
8 *multifamily projects.*

9 *(b) This article shall not apply to any of the following:*

10 *(1) Homeowner-installed landscaping at single-family and*
11 *multifamily projects.*

12 *(2) Cemeteries.*

13 *(3) Registered historical sites.*

14 *(4) Ecological restoration projects that do not require a*
15 *permanent irrigation system.*

16 *(5) Mine-land reclamation projects that do not require a*
17 *permanent irrigation system.*

18 *(6) Any project with a landscaped area that is less than 2,500*
19 *square feet.*

20 SEC. 4. *Section 65592 of the Government Code is amended*
21 *to read:*

22 *65592. Unless the context requires otherwise, the following*
23 *definitions used in this section govern the construction of this*
24 *article:*

25 *(a) “Department” means the Department of Water Resources.*

26 *(b) “Estimated total water use” means the annual total amount*
27 *of water estimated to be needed to keep the plants in the landscaped*
28 *areas healthy, and is based upon factors that include, but are not*
29 *limited to, the local evapotranspiration rate, the size of the*
30 *landscaped area, the types of plants, and the efficiency of the*
31 *irrigation system.*

32 *(c) “Evapotranspiration” means the quantity of water*
33 *evaporated from adjacent soil surfaces and transpired by plants*
34 *during a specific time.*

35 *(d) “Evapotranspiration adjustment factor” means the*
36 ~~*mathematical calculation, involving measures of evaporation,*~~
37 ~~*types of plants, and irrigation efficiency that is used to determine*~~
38 ~~*numeric value that, when applied to reference evapotranspiration,*~~
39 ~~*adjusts for plants and irrigation efficiency to yield the amount of*~~
40 ~~*water that needs to be applied to the landscape.*~~



1 (e) “Local agency” means any city, county, or city and county.

2 (f) “Maximum applied water allowance” means the upper
3 limit of annual applied water for the established landscaped area,
4 based upon *the area’s reference* evapotranspiration, the
5 evapotranspiration adjustment factor, and the size of the
6 landscaped area.

7 (g) “*Reference evapotranspiration*” means a standard
8 measurement of environmental parameters that affect the water
9 use of plants in a specific geographic location, derived from the
10 evapotranspiration of a large field of four- to seven-inch tall,
11 cool-season grass that is well-watered.

12 (h) “Updated water efficient landscape ordinance” means an
13 ordinance or resolution adopted by a local agency ~~to address for~~
14 *purposes that include, but are not limited to, the adoption of*
15 *specific water use efficiency in new and rehabilitated landscapes*
16 *at the time of installation to ensure the efficient use of water in*
17 ~~landscaping those landscapes~~ that revises or updates the existing
18 water efficient landscape ordinance, adopted by local agencies
19 pursuant to Section 65595, that includes the provisions contained
20 within the department’s updated model water efficient landscape
21 ordinance adopted pursuant to Section 65600.1.

22 ~~(h)~~

23 (i) “Water efficient landscape ordinance” means an ordinance
24 or resolution adopted by a local agency to address the efficient use
25 of water in landscaping.

26 ~~SEC. 4.—~~

27 *SEC. 5.* Section 65600.1 is added to the Government Code, to
28 read:

29 65600.1. (a) Not later than January 1, 2004, the department,
30 after holding a public hearing, shall adopt an update to the model
31 local water efficient landscape ordinance that it developed
32 pursuant to Section 65594, and shall adopt guidelines ~~for the~~
33 ~~evaluation by the department of updated water efficient landscape~~
34 ~~ordinances adopted by local agencies.~~

35 ~~(b) In updating the model ordinance, the department shall~~
36 ~~recognize and promote the benefits of consistent local ordinances~~
37 ~~in areas having similar climatic, geological, or topographical~~
38 ~~conditions.~~

39 ~~(c) that can be used by a local agency or other interested~~
40 ~~parties to determine whether a new or updated water efficient~~



1 *landscape ordinance is at least as effective as the model water*
2 *efficient landscape ordinance adopted by the department.*

3 (b) Not later than January 31, 2004, the department shall
4 distribute the updated model ordinance and the guidelines for ~~the~~
5 ~~department's evaluation of updated water efficient landscape~~
6 ~~ordinances that are adopted by local agencies, to all local agencies~~
7 *local agencies to determine the efficacy of their new or updated*
8 *water efficient landscape ordinances, to all local agencies and*
9 *other interested parties.*

10 ~~SEC. 5.—~~

11 (c) Not later than January 1, 2008, and January 1, 2013,
12 respectively, the department shall review the evapotranspiration
13 adjustment factors established pursuant to paragraphs (1) and (2)
14 of subdivision (a) of Section 65600.2. Each review shall consider
15 the science, technology, and economics of ornamental landscape
16 irrigation and shall incorporate appropriate public involvement
17 of, at a minimum, the landscape industry, water agencies, and
18 nonprofit environmental groups. Upon the completion of each
19 review, the department may adopt and publish a different
20 evapotranspiration adjustment factor that is not greater than a
21 factor of 0.8 if the department finds that it is not feasible to achieve
22 either of the specific factor values established in paragraphs (1)
23 and (2) of subdivision (a) of Section 65600.2.

24 SEC. 6. Section 65600.2 is added to the Government Code, to
25 read:

26 65600.2. The model ordinance, adopted pursuant to Section
27 65594, shall be updated as follows:

28 (a) ~~Revise the evapotranspiration adjustment factor to 0.7 after~~
29 ~~five years and 0.6 after 10 years, except that the department is~~
30 ~~directed to review the science and technology of ornamental~~
31 ~~landscape irrigation prior to each of these statutory revisions, and,~~
32 ~~after appropriate public involvement of, at a minimum, the~~
33 ~~landscape industry, water agencies, and nonprofit environmental~~
34 ~~groups, may adopt a different evapotranspiration adjustment~~
35 ~~factor that is not lesser than the existing 0.8 factor if the department~~
36 ~~finds that it is not feasible to achieve the statutory revisions, and~~
37 ~~1.0 for irrigation with reclaimed water. as follows:~~

38 (1) *Effective January 1, 2010, the factor is 0.7, or that value*
39 *published by the department pursuant to subdivision (c) of Section*
40 *65600.1.*



1 (2) *Effective January 1, 2015, the factor is 0.6, or that value*
2 *published by the department pursuant to subdivision (c) of Section*
3 *65600.1.*

4 (3) *The factor is 1.0 for irrigation with reclaimed water.*

5 (b) Clarify that estimated total water use and maximum applied
6 water allowance include any replacement water for evaporation
7 from landscape features that use ornamental or recreational water,
8 including, but not limited to, ponds, fountains, pools, and spas,
9 within the landscaped area.

10 ~~SEC. 6.—~~

11 *SEC. 7.* Section 65600.3 is added to the Government Code, to
12 read:

13 65600.3. (a) Except as provided in subdivision (b), by
14 January 1, 2005, a local agency shall adopt ~~an~~ *a new or updated*
15 *water efficient landscape ordinance that, at a minimum, meets the*
16 ~~standards set forth in~~ *is at least as effective as* the updated model
17 water efficient landscape ordinance adopted by the department
18 pursuant to Section 65600.1.

19 (b) If by January 1, 2005, a local agency has not ~~updated its~~
20 *adopted a new or updated* water efficient landscape ordinance, the
21 updated model water efficient landscape ordinance adopted by the
22 department pursuant to subdivision (a) of Section 65600.1 shall
23 take effect for that local agency on January 1, 2005, and shall be
24 enforced by the local agency and have the same force and effect
25 as if adopted by that local agency.

26 ~~(c) For local agencies that update their own water efficient~~
27 ~~landscape ordinances prior to January 1, 2005, the ordinance shall~~
28 ~~be submitted to the department, within 15 days of adoption by the~~
29 ~~local agency, for an evaluation of the updated water efficient~~
30 ~~landscape ordinance for consistency with, and equivalency to, the~~

31 (c) *Those local agencies that adopt a new or updated water*
32 *efficient landscape ordinance prior to January 1, 2005, may seek*
33 *technical assistance from the department by requesting the*
34 *department to review and provide comment on the new or updated*
35 *water efficient landscape ordinance to make a determination that*
36 *it is at least as effective as the updated model water efficient*
37 *landscape ordinance, pursuant to the guidelines established under*
38 *subdivision (a) of Section 65600.1.*



1 (d) Compliance with the requirements of a local updated water
2 efficient landscape ordinance may be undertaken pursuant to
3 paragraph (1) or (2), as follows:

4 ~~(1) Local agencies and water service providers shall verify that~~
5 *(1) (A) Local agencies shall verify that the installation of*
6 *landscapes comply with the updated ordinance. If the local agency*
7 ~~or water service provider determines that the landscaped area does~~
8 *not comply with the updated ordinance, it may specify a*
9 *compliance plan for conformance with the applicable updated*
10 *ordinance. If the owner fails to implement the compliance plan*
11 ~~within 90 days, the local agency or water service provider may~~
12 *assess a surcharge to that water service account until the landscape*
13 ~~complies with the updated ordinance. Local agencies and water~~
14 ~~service providers shall conduct periodic~~ *Local agencies shall*
15 *conduct periodic* monitoring of landscapes to ensure compliance
16 with the updated ordinance.

17 ~~(2) Local agencies and water service providers shall verify that~~
18 ~~an irrigation meter used exclusively for outdoor irrigation has been~~
19 ~~installed in landscapes as a condition of certification. The water~~

20 *(B) If the local agency fails to conduct the activities required in*
21 *subparagraph (A), then the water service provider, if it is a*
22 *different government entity than the local agency, may undertake*
23 *the activities required in subparagraph (A). That water service*
24 *provider shall provide at least 60 days notice to the local agency*
25 *that it intends to exercise the authority provided in this*
26 *subparagraph.*

27 *(C) If the owner fails to implement the compliance plan within*
28 *90 days, the local agency, or the water service provider if it is*
29 *undertaking the activities of this paragraph pursuant to*
30 *subparagraph (B), may assess a surcharge to that water service*
31 *account until the landscape complies with the updated ordinance.*

32 *(2) Local agencies or the water service providers, if the water*
33 *service provider is a different government entity than the local*
34 *agency, shall verify that an irrigation meter used exclusively for*
35 *outdoor irrigation of landscapes subject to the water efficient*
36 *landscapes ordinance has been installed in landscapes. The water*
37 *service provider for that landscape may determine a water budget*
38 *for that landscape based on the updated ordinance. In order to*
39 *ensure compliance with the water budget, the water service*
40 *provider may take appropriate actions, including but not limited*



1 to, imposition of surcharges, incentives, education, site visits, and
2 provision of technical assistance.

3 ~~SEC. 7.—~~

4 *SEC. 8.* Section 65600.4 is added to the Government Code, to
5 read:

6 65600.4. The department shall establish by January 1, 2006,
7 and update not less frequently than every five years thereafter, the
8 following documents:

9 (a) A directory of the updated water efficient landscape
10 ordinances adopted by local agencies prior to January 1, 2005,
11 pursuant to subdivision (c) of Section 65600.3.

12 (b) A directory of the updated water efficient landscape
13 ordinances of local agencies adopted pursuant to subdivision (b)
14 of Section 65600.3.

15 (c) The department shall retain all local updated water efficient
16 landscape ordinances adopted by local agencies and submitted to
17 the department pursuant to subdivision (c) of Section 65600.3.

18 ~~SEC. 8.—~~

19 *SEC. 9.* Section 65600.5 is added to the Government Code, to
20 read:

21 ~~65600.5.—(a) If, by January 1, 2005, any local agency is not~~
22 ~~either enforcing the updated model water efficient landscape~~
23 ~~ordinance adopted pursuant to subdivision (b) of Section 65600.3~~
24 ~~or has not adopted its own updated ordinance that has been~~
25 ~~determined by the department, pursuant to subdivision (c) of~~
26 ~~Section 65600.3, to be consistent with, and equivalent to the~~
27 ~~updated model ordinance, the local agency shall be ineligible to~~
28 ~~receive funding pursuant to Division 24 (commencing with~~
29 ~~Section 78500) of the Water Code, Division 26 (commencing with~~
30 ~~Section 79000) of the Water Code, or Chapter 1.692 (commencing~~
31 ~~with Section 5096.300) of Division 5 of the Public Resources~~
32 ~~Code, until an updated ordinance is submitted and approved by the~~
33 ~~department pursuant to this article or the updated model ordinance~~
34 ~~is being enforced by the local agency.~~

35 (b) If the local agency, or any department or agency thereof, is
36 a provider of water service and the local agency is not either
37 enforcing the updated model water efficient landscape ordinance
38 adopted pursuant to subdivision (b) of Section 65600.3 or has not
39 adopted its own updated ordinance which has been determined by
40 the department, pursuant to subdivision (c) of Section 65600.3, to



1 ~~be consistent with and equivalent to the updated model ordinance;~~
2 ~~the local agency shall be ineligible to receive funding pursuant to~~
3 ~~Division 24 (commencing with Section 78500) of the Water Code;~~
4 ~~Division 26 (commencing with Section 79000) of the Water Code;~~
5 ~~Chapter 1.692 (commencing with Section 5096.300) of Division~~
6 ~~5 of the Public Resources Code, or receive drought assistance from~~
7 ~~the state, until an updated ordinance is submitted and approved by~~
8 ~~the department pursuant to this article or the updated model~~
9 ~~ordinance is being enforced by the local agency.~~

10 ~~SEC. 9.—~~

11 65600.5. (a) *If by July 1, 2004, a local agency is either*
12 *enforcing the updated model water efficient landscape ordinance*
13 *adopted pursuant to subdivision (b) of Section 65600.3 or has*
14 *adopted its own new or updated ordinance that has been*
15 *determined by the department, pursuant to subdivision (c) of*
16 *Section 65600.3, to be at least as effective as the updated model*
17 *ordinance, the local agency shall be eligible for priority*
18 *consideration by the California Infrastructure and Economic*
19 *Development Bank, and for priority consideration for funding*
20 *pursuant to Division 24 (commencing with Section 78500) and*
21 *Division 26 (commencing with Section 79000) of the Water Code*
22 *to the extent consistent with those divisions, when seeking funding*
23 *for local capital improvement and other infrastructure projects.*
24 *No provision in this chapter shall affect the allocation of per capita*
25 *funds to the local government entities pursuant to Section*
26 *5096.332 or Section 5096.333 of the Public Resources Code.*

27 (b) *If the local agency, or any department or agency thereof, is*
28 *a provider of water service and the local agency is, by July 1, 2004,*
29 *either enforcing the updated model water efficient landscape*
30 *ordinance adopted pursuant to subdivision (b) of Section 65600.3*
31 *or has adopted its own new or updated ordinance that has been*
32 *determined by the department, pursuant to subdivision (c) of*
33 *Section 65600.3, to be at least as effective as the updated model*
34 *ordinance, the local agency shall be eligible for priority*
35 *consideration by the California Infrastructure and Economic*
36 *Development Bank and for priority consideration for funding*
37 *pursuant to Division 24 (commencing with Section 78500) and*
38 *Division 26 (commencing with Section 79000) of the Water Code*
39 *to the extent consistent with those divisions, when seeking funding*
40 *for local capital improvement and other infrastructure projects.*



1 *No provision in this chapter shall affect the allocation of per capita*
2 *funds to local government entities pursuant to Section 5096.332 or*
3 *Section 5096.333 of the Public Resources Code.*

4 SEC. 10. Chapter 2.5 (commencing with Section 17929) is
5 added to Part 1.5 of Division 13 of the Health and Safety Code, to
6 read:

7

8 CHAPTER 2.5. WATER-EFFICIENT PLUMBING FIXTURE RETROFIT
9 PROGRAM

10

11 17929. (a) On and after July 1, 2004, every transferor of
12 commercial or industrial property, and on and after July 1, 2005,
13 every transferor of residential property using water in urinals,
14 ~~water closets~~ *toilets*, or showerheads, or any combination of these
15 devices, shall deliver to the transferee, as soon as practicable prior
16 to the transfer of title, a written statement that *all these devices*
17 *installed within the property are* conservation devices, as
18 prescribed in subdivision (b) of Section 17929.1, ~~are installed in~~
19 ~~all fixtures in the property, in compliance with this~~ *in compliance*
20 *with this chapter.* The statement shall be either included in the
21 receipt for deposit in a real estate transaction, an addendum
22 attached there to included in the form for disclosure prescribed by
23 Section 1102.6 of the Civil Code, or a separate document. At the
24 discretion of the transferor, compliance with this chapter may be
25 included as a condition of the close of escrow, and the costs of
26 compliance may be paid from the proceeds of sale for completion
27 of the work required. In no event shall the transferor be relieved
28 of the obligation of providing a written statement that the fixtures
29 comply with this chapter.

30 (b) Any violation of this section or Section 17929.1 is an
31 infraction punishable by a maximum fine of two hundred fifty
32 dollars (\$250) for each offense.

33 (c) This section does not apply to any of the following:

34 (1) Transfers that are required to be preceded by the furnishing
35 to a prospective transferee of a copy of a public report pursuant to
36 Section 11018.1 of the Business and Professions Code and
37 transfers which can be made without a public report pursuant to
38 Section 11010.4 of the Business and Professions Code.

39 (2) Transfers pursuant to court order, including, but not limited
40 to, transfers ordered by a probate court in administration of an



1 estate, transfers pursuant to a writ of execution, transfers by any
2 foreclosure sale, transfers by a trustee in bankruptcy, transfers by
3 eminent domain, and transfers resulting from a decree for specific
4 performance.

5 (3) Transfers to a mortgagee by a mortgagor or successor in
6 interest who is in default, transfers to a beneficiary of a deed of
7 trust by a trustor or successor in interest who is in default, transfers
8 by any foreclosure sale after default, in an obligation secured by
9 a mortgage, and transfers by a sale under a power of sale or any
10 foreclosure sale under a decree of foreclosure after default in an
11 obligation.

12 (4) Transfers by a fiduciary in the course of the administration
13 of a decedent's estate, guardianship, conservatorship, or trust.

14 (5) Transfers from one coowner to one or more other coowners.

15 (6) Transfers made to a spouse, or to a person or persons in the
16 lineal line of consanguinity of one or more of the transferors.

17 (7) Transfers between spouses resulting from a decree of
18 dissolution of marriage or a decree of legal separation or from a
19 property settlement agreement incidental to a decree.

20 17929.1. (a) No transferor of residential, commercial, or
21 industrial property subject to this chapter shall provide the
22 transferee with confirmation of compliance with the requirements
23 of this chapter unless the conservation devices described in
24 subdivision (b) have been installed.

25 (b) ~~Low consumption water closets~~ *For the purposes of this*
26 *chapter, "conservation devices" mean low consumption toilets*
27 *and associated flushometer valves, if any, that use no more than an*
28 *average of 1.6 gallons per flush, urinals and associated*
29 *flushometer valves, if any, that use no more than an average of one*
30 *gallon per flush, and showerheads, if any, that use no more than an*
31 *average of 2.5 gallons per minute at 80 psi a flowing water pressure*
32 *of 80 pounds per square inch. This requirement, however, does not*
33 *apply to blow-out water closets and associated flushometer valves.*

34 17929.2. If the transferor fails to comply with subdivision (a)
35 of Section 17929, the transferee shall install the conservation
36 devices, as prescribed in subdivision (b) of Section 17929.1,
37 within 90 days. Any transferor who fails to comply with the
38 requirements of this chapter is liable to the transferee in the amount
39 of five hundred dollars (\$500) for each water device listed in
40 subdivision (b) of Section 17929.1 that does not comply with this



1 chapter at the time of transfer, or the actual costs of the transferee
2 to comply with this chapter, whichever amounts are greater.

3 (b) No liability shall arise, nor any action be brought or
4 maintained against, any agent of any party to a transfer of title,
5 including any person or entity acting in the capacity of an escrow,
6 for any error, inaccuracy, or omission relating to the disclosure
7 required to be made by a transferor pursuant to this chapter.
8 However, this subdivision does not apply to a licensee, as defined
9 in Section 10011 of the Business and Professions Code, where the
10 licensee participates in the making of the disclosure required to be
11 made pursuant to this chapter with actual knowledge of the falsity
12 of the disclosure. Except as otherwise provided in this section, this
13 section shall not be deemed to create or imply a duty upon a
14 licensee or upon any agent of any party to a transfer of title,
15 including any person or entity acting in the capacity of an escrow,
16 to monitor or ensure compliance with this chapter.

17 17929.3. This chapter does not preempt any actions of cities,
18 counties, or districts that prescribe water conservation
19 requirements that will result in greater savings of water than those
20 provided for in this chapter.

21 17929.4. Any real estate agent, real estate broker, or real
22 estate salesperson, whether representing a transferor or transferee,
23 or both, involved in the transfer of title to property subject to this
24 chapter, shall give written notice to the transferee and transferor
25 of the requirements of this chapter prior to the transfer of title to
26 the property.

27 17929.5. A transfer of title is not invalidated on the basis of
28 a failure to comply with this chapter.

29 ~~SEC. 10.—~~

30 *SEC. 11.* Section 6356.4 is added to the Revenue and Taxation
31 Code, to read:

32 6356.4. (a) There are exempted from the taxes imposed by
33 this part ~~that~~ *the* gross receipts from the sale in this state of, and
34 the storage, use, or other consumption in this state of, ~~energy~~
35 ~~efficient clothes washers.~~

36 ~~(b) For purposes of this section, “energy efficient” means that~~
37 ~~the appliance meets or exceeds the applicable ENERGY STAR~~
38 ~~efficiency requirements developed by the United States~~
39 ~~Environmental Protection Agency and the United States~~
40 ~~Department of Energy.~~



1 ~~SEC. 11.~~ By February 28, 2003, the State Water Resources
2 Control Board shall submit to the Legislature a progress report
3 regarding the development of a framework and process to certify
4 the implementation of best management practices for urban water
5 conservation by urban water agencies. This report shall also
6 contain recommendations regarding the implementation of a
7 certification program and an analysis of its budget implications.
8 This report shall rely upon existing data and information, to the
9 greatest extent possible, and shall be prepared in consultation with
10 CALFED agencies, the California Urban Water Conservation
11 Council, and other interested parties. The report shall be consistent
12 with the CALFED Bay-Delta Program Record of Decision dated
13 August 28, 2000, and shall recognize the linkages between the
14 water use efficiency program and the other 11 CALFED program
15 elements within the four CALFED problem areas.

16 ~~SEC. 12.~~ Notwithstanding Section 2230 of the Revenue and
17 Taxation Code, no appropriation is made by Section 10 of the act
18 adding this section and the state may not reimburse any local
19 agency for any sales and use tax revenues lost by it under Section
20 10 of the act adding this section.

21 ~~SEC. 13.~~ *new water- and energy-efficient clothes washers*
22 *from July 1, 2003, to December 21, 2006, inclusive.*

23 *(b) (1) This section shall become operative only if a resources*
24 *bond measure is approved by the voters at a statewide election*
25 *from which funds may be available to fully offset the loss of sales*
26 *tax revenue deposited in the General Fund as a result of the*
27 *exemption provided in subdivision (a).*

28 *(2) This section shall become inoperative for any period for*
29 *which the Secretary of Resources finds and declares that*
30 *substantial customer incentives, including, but not limited to,*
31 *rebates and vouchers, to encourage the purchase of water- and*
32 *energy-efficient clothes washers are not being offered by public*
33 *utilities or water purveyors, as defined in Section 512 of the Water*
34 *Code, or both, to at least 65 percent of all California households.*

35 *(c) For the purposes of this section, the following definitions*
36 *apply:*

37 *(1) "Substantial customer incentives" means incentives with a*
38 *retail value of at least one hundred and fifty dollars (\$150).*

39 *(2) "Water- and energy-efficient clothes washers" has the same*
40 *meaning as provided in subdivision (b) of Section 17138.*



1 (d) Notwithstanding any provision of the Bradley-Burns
2 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with
3 Section 7200)) or the Transactions and Use Tax Law (Part 1.6
4 (commencing with Section 7251)), the exemption established by
5 this section shall not apply with respect to any tax levied by a
6 county, city, or district pursuant to, or in accordance with, either
7 of those laws or with respect to any tax imposed by Section 6201.2
8 or by Section 35 of Article XIII of the California Constitution.

9 (e) This section shall remain in effect only until January 1,
10 2007, and as of that date is repealed, unless a later enacted statute,
11 that is enacted before January 1, 2007, deletes or extends that date.

12 SEC. 12. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution for
14 certain costs that may be incurred by a local agency or school
15 district because in that regard this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 However, notwithstanding Section 17610 of the Government
22 Code, if the Commission on State Mandates determines that this
23 act contains other costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code. If the statewide cost of the
27 claim for reimbursement does not exceed one million dollars
28 (\$1,000,000), reimbursement shall be made from the State
29 Mandates Claims Fund.





MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-3

January 26, 1993

(Water Problems Committee--Action)
To: Board of Directors (Finance and Insurance Committee--Information)
From: General Manager
Subject: Landscape Conservation Program

Report

The California Urban Water Conservation Best Management Practices (BMP) pertaining to landscape (BMPs 1, 5, 6, and 12) require that water agencies: implement landscape water audits; provide guidelines, information, and incentives for installation of more-efficient landscapes; and enact and implement landscape water conservation ordinances. This letter contains staff's proposal for a landscape program for Metropolitan and its member agencies.

The proposed program is based on the following premises: 1) the landscape industry is a complex, multi-faceted industry; 2) human behavior is probably the most significant controlling factor in outside water use; 3) we have no reliable quantification of landscape water use; 4) water audit effectiveness is unproven; 5) many member agencies and most sub-agencies lack sufficient staff to accomplish landscape BMPs; 6) within Metropolitan's service area, there is no entity other than Metropolitan that can provide the regional coordination required to achieve effective landscape water conservation; and 7) significant, permanent landscape water conservation will not be achieved by quick fixes.

The proposed program includes the following components: 1) an intern pilot project for low-cost residential water audits of high water users; 2) promotional programs to support regional gardens emphasizing dry-climate landscape and co-participation in local contests among water users to identify, publicize, and promote award-winning examples of dry-climate landscape; 3) educational programs to target different groups affecting landscape water use, namely landscape architects, irrigation designers, landscape contractors, gardeners, nurserymen, and municipal organizations and governing bodies; 4) software development to permit landscape architects and irrigation designers to easily implement AB 325, the Model Water Efficient Landscape Ordinance; 5) research programs will also be developed to: a) determine water use requirements of different trees, shrubs, and groundcovers; b) identify inexpensive, reliable

moisture sensors for residential turf irrigation control; and c) test centralized, computer-controlled irrigation systems coupled with system maintenance service to reduce wasteful water use; 6) collect and disseminate pertinent water conservation information among significant green-industry segments; and 7) conduct several pilot projects to test different water audit and incentive approaches and to quantify residential and public school landscape conservation water savings.

The total proposed Landscape Conservation Program budget is estimated to be \$2.5 million of which \$900,000 would be allocated from the Conservation budget for fiscal year 1992-93. The balance of \$1.4 million would be included in the budget request for fiscal year 1993-94. A detailed outline of the proposed program budget is attached.

This action is exempt from provisions of the California Environmental Quality Act in that there is no possibility that it may have a significant adverse effect on the environment.

Board Committee Assignments

This letter is referred to:

The Water Problems Committee for action because of its authority to advise and make recommendations with regard to policies regarding water conservation pursuant to Administrative Code Section 2481(i); and

The Finance and Insurance Committee for information because of its authority to advise and make recommendations with regard to policies regarding disposition and investment of funds pursuant to Administrative Code Section 2441(c).

Recommendation

WATER PROBLEMS COMMITTEE FOR ACTION.

It is recommended that: 1) your Board approve the program concept as presented; 2) your Board approve \$900,000 for the Landscape Conservation Program from the fiscal year 1992-93 budget; and 3) the General Manager be authorized to enter into agreements in excess of \$250,000 with member agencies and other parties as he deems desirable to implement Landscape Conservation Program projects as outlined in this letter. All agreements are to be approved in form by the General Counsel.


Carl Boronkay

JPW:aw:lanii

Attachment

OUTLINE AND BUDGET* FOR LANDSCAPE PROGRAM

A. EDUCATIONAL PROGRAMS

1. Conservation Coordinator Training for Residential Landscape Water Conservation Workshops
 - Develop materials for half-day workshops
 - basic soil/plant/water relationships
 - principles of dry climate landscapes
 - basic irrigation principles
 - maximum allowable water allowance (and techniques to stay within)
 - Develop with contractor
 - Co-sponsor workshops conducted by member and sub-agencies for retail home improvement centers, local nurseries, garden clubs, and local service clubs
 - Provide course materials (See A.7 below)
 - Budget: \$50,000

2. Gardeners' Irrigation "Short Course" to target landscape gardeners and landscape irrigation operators
 - Half-day, hands-on classes
 - basic soil/plant/water relationships
 - principles of uniformity
 - benefits of good irrigation water management
 - sprinkler uniformity demonstration
 - introduction to drip
 - visual props
 - Contract with Cal Poly San Luis Obispo
 - Promoted through local water agencies, parks departments, golf courses, local nurseries and irrigation dealerships, phone contact with local landscape contractor
 - Agencies contribute via in-kind service to promote program locally
 - Bi-lingual (Spanish/English)
 - Promotional program and coordination support (see A.7 below)
 - 30 classes
 - Budget: \$50,000

* Budget figures represent full fiscal year amounts; for budgeted amounts for remainder of fiscal year 1992-93, see Budget Summary at end of exhibit.

3. Irrigation System Maintenance and Repair Courses for landscape maintenance personnel, landscape contractors, and gardeners
 - Two six-hour courses
 - Maintenance and basic repair of:
 - hydraulic components
 - electrical components
 - Contract with Irrigation Association
 - 25 classes - 1000 participants
 - Promotional literature and support (see A.7 below)
 - Budget: \$62,500

4. Landscape Irrigation Auditing and Scheduling Course to target landscape maintenance contractors, site managers, master gardeners, water agency personnel
 - One- or two-day class
 - audit procedures
 - techniques
 - analytic concepts
 - Hands-on and concept centered
 - Computer and non-computer formats
 - additional computer support from Cal Poly San Luis Obispo (see #5 below)
 - Contract with UC Riverside
 - Promotional literature and support (see A.7 below)
 - Evaluate course effectiveness via post-course surveys
 - Budget: (\$197,200 budgeted on separate work order)

5. AB 325 support for architects, designers, planners, conservation coordinators
 - Develop software to analyze landscape water needs and to create irrigation scheduling based on requirements of AB 325 or customized local ordinance
 - Develop a one day class (Planning for AB 325) centered on using the software for planning and landscape design in accordance with AB 325
 - Contract Cal Poly San Luis Obispo for software and class development
 - Train interns to assist member agencies in establishing water budgets for top landscape water users
 - Promotional and literature support (see A.7 below)
 - Budget: software and class - \$105,000
intern audit program - \$55,000

6. Public Relations Presentations for city councils, water boards, local service groups

- Half-hour to hour sessions
 - drought conditions
 - supply/demand constraints
 - summary of conservation program opportunities
 - public/private partnership emphasis
- Contractor on retainer/conservation coordinator
- Agency support: local promotion and arranging presentations to local groups
- Promotional literature and support (see A.7 below)
- 50 presentations
- Budget: \$15,000

7. Program Coordinator/Organizer

- Coordinates and organizes the various classes, workshops and courses listed above and for other conservation courses, meetings, etc.
- Works hand-in-hand with agencies and subagencies, acting as an extension of staff
- Permits course contractors to focus efforts where their skills are best used - conducting courses
- Organizes regional data bank of potential attendees
- Develops and maintains promotional materials
- Develops and maintains maintain data base for information dissemination (see Item C.1-6 below)
- Budget: \$25,000

B. DRY CLIMATE LANDSCAPE PROMOTION

1. Promote network of selected regional centers that teach dry climate landscape fundamentals (design, soil improvements, limited turf areas, use of mulches, use of low-water-demand plants, efficient irrigation, and appropriate maintenance)

- Select sites with high public visibility, possibly Western MWD, Irvine Ranch WD, San Diego Zoo and Wild Animal Park, the LA County Arboretum, Fullerton Arboretum, and sites on West Side, and San Fernando Valley
- Develop supporting literature for distribution through public libraries, garden clubs, service clubs, schools, nurseries, new housing developments, etc.
- Budget: \$50,000

2. Co-sponsor contests with water agencies for the "Top Ten" dry climate landscape sites. Co-sponsorship to include cash awards, contest publicity, community recognition, and news releases
 - Solicit participation of local garden clubs, nurseries, home improvement centers, and other business and community groups
 - Develop literature to support unguided tours of award-winning sites (with owners' consent)
 - 20 contests; awards of \$1000, \$750, \$500 and \$250 plus framed certificates of recognition
 - Budget: \$20,000

3. Conduct short workshops for interested home and business owners, garden clubs, service clubs, nurseries, and home improvement centers
 - Cover dry climate landscape principles and anticipated water savings (present and extrapolated)
 - Provide supporting literature and list of local businesses and professionals who provide dry climate services and materials
 - Post-workshop: demonstrate computer-designed landscape options
 - Workshops - 3 hours each
 - Budget: \$10,000

4. Co-sponsor with local water agencies and residential developers the landscaping of model homes with dry climate landscape
 - Promote concept of environmentally efficient homes
 - Each home buyer is provided with supporting literature and list of local businesses and professionals who provide xeriscape services and materials
 - Cash rebates solicited from local businesses and professionals
 - Developer installs separate metering for monitoring landscape water use
 - Developer incentives: positive publicity (being environmentally responsible) and the building permit (no permit by local building authority without consent to installing sample dry climate landscape and distributing supporting materials to home-buyers)
 - Budget: \$ 0 (to be requested in 1993-94 budget)

5. Solicit cooperation of nurserymen to promote and stock dry climate landscape plant materials
 - Educate nursery owners and staff of Southern California's highly tenuous water supply situation and the need to conserve water. Highlight potential savings achievable with dry climate landscape
 - Hour-long presentations at local California Association of Nurserymen meetings and at local nurseries and garden centers
 - Provide nursery signs for dry climate plants, dry climate calendar, etc.
 - Solicit co-sponsorship co-sponsorship of California Association of nurserymen
 - 20 classes
 - Budget: \$10,000

C. INFORMATION DISSEMINATION

1. Provide central information source for green industry keeping track of:
 - Calendar of upcoming green industry events
 - Latest pertinent water-related landscape issues and listing of source(s)
2. Maintain library of water-related, landscape publications and articles.
3. Develop data base of green industry personnel
 - Utilize lists of participants of various education courses, membership rosters of green industry groups, university personnel, etc.
4. Distribute quarterly newsletter highlighting most recent calendar of upcoming green industry events and summary of latest pertinent, published landscape materials
5. Solicit co-sponsorship from green industry groups (CLCA, CAN, CLAA, Xeriscape Foundation, IA, etc.
6. Budget: \$10,000

D. RESEARCH

1. Trees, shrubs and groundcovers: water requirements
 - UC Riverside
 - Budget: \$80,000 per year for three years
2. Inexpensive, reliable moisture sensors
 - Testing existing products
 - Developing specification for required product
 - Testing by Center for Irrigation Technology
 - Budget: \$50,000

E. PILOT PROJECTS

1. Centralized landscape irrigation control system
 - Target: schools, public housing
 - Budget: \$25,000
2. Quantification of water conservation in different landscape settings:
 - Residential audit program
 - Budget: \$250,000
 - School retrofit program
 - Budget: \$100,000

LANDSCAPE PROGRAM BUDGET SUMMARY

	Fiscal Year	
	<u>1992-93</u>	<u>1993-94</u>
1. Courses		
A. Residential Landscape Water Conservation Workshop	50,000	50,000
B. Gardeners' Irrigation "Short Course"	50,000	75,000
C. Irrigation System Maintenance and Repair	62,500	75,000
D. Landscape Irrigation Auditing and Scheduling	*	240,000
E. AB 325 Support	105,000	60,000
F. Public Relations Presentations	15,000	30,000
2. Course organizer/coordinator	25,000	60,000
3. Dry Climate Landscape Promotion		
A. Support for regional centers	50,000	100,000
B. "Top Ten" award contests	20,000	50,000
C. Dry climate workshops	10,000	25,000
D. Model home promotions	0	25,000
E. Dry climate plant material promotion with local nurseries	10,000	20,000
4. Information Dissemination		
A. Developing data base	10,000	
B. Maintaining library	**	**
C. Tracking current events and information	**	**
D. Distributing quarterly newsletter	0	20,000
5. Research		
A. Trees, shrubs & groundcovers: water use	80,000	80,000
B. Study to identify an expensive, reliable moisture sensors	50,000	0
C. Centralized irrigation control system study	25,000	0
D. Other - unspecified	0	50,000

6. Pilot Projects

A. Quantification of landscape water conservation savings:

1. Residential audit program	250,000	200,000
2. Schools - exterior and interior audit and retrofit (3-5 schools)	100,000	200,000
7. Miscellaneous	<u>20,000</u>	<u>115,000</u>
Total	\$925,000	\$1,480,000

* Currently budgeted separately for fiscal year 1992-93.

** Costs budgeted under item #2, Course Organizer/Coordinator.

CALFED Water Use Efficiency

Support the inclusion of water use efficiency strategies for all water use sectors including urban, agricultural, and environmental in the overall CALFED solution.

Support the “certification framework” as described in the CALFED PEIR/EIS dated June 1999 as part of an agreed-upon CALFED solution.

Support the allocation of financial resources to water agencies to fund projects required as part of the CALFED solution, especially those projects which exceed local levels of cost-effectiveness and possibly additional offstream responsibility.