

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

April 10, 2007 Board Meeting

8-11

Subject

Authorize sponsorship of and support for AB 1481 (De La Torre, D-South Gate) – General Water Recycling Permit; and express support for AB 1406 (Huffman, D-San Rafael) – Toilet and Urinal Flushing with Recycled Water in Condominiums

Description

Summary

This board letter seeks legislative support for two California Assembly bills that help streamline water recycling regulation and expand recycled water uses. AB 1481 ([Attachment 1](#)) would require the State Water Resources Control Board (State Board) to adopt a general water recycling permit for landscape irrigation, and AB 1406 ([Attachment 2](#)) would allow agencies to require the use of recycled water for toilet and urinal flushing in condominiums.

Assembly Bill 1481

Existing Law

The State Board and regional water quality control boards set water discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) program and the Porter-Cologne Water Quality Control Act (Act). Under certain conditions, the Act authorizes the State Board or regional boards to prescribe general waste discharge requirements.

Proposed Legislation

AB 1481 would require the State Board to adopt a general permit for projects serving recycled water for landscape irrigation, consistent with California Department of Health Services (CDHS) uniform statewide water recycling criteria. The permit would apply to recycled water irrigation uses such as parks, playgrounds, school yards, residential landscaping and golf courses with unrestricted access. The bill would also allow the State Board to appoint an expert for communicating and facilitating recycled water permitting issues and provide oversight of permits issued by regional water quality control boards. The city of Los Angeles is the sponsor of AB 1481 and has requested that Metropolitan co-sponsor the measure.

Benefits

A general permit would help streamline current regulatory approval processes and ensure a consistent, statewide approach for landscape irrigation projects. Creating a general permit also addresses 2003 Recycled Water Task Force recommendation to evaluate current state and local rules and identify opportunities to increase recycled water use. The proposed bill could lead to increased recycled water production for landscape irrigation projects in Metropolitan's Local Resources Program. Development of new recycled water yield is needed to meet regional water supply reliability and avoid future demand for imported supplies from Metropolitan.

Assembly Bill 1406

Existing Law

To protect public health, the CDHS sets criteria for recycled water use. Current law allows public agencies to require the use of recycled water for toilet and urinal flushing in commercial, retail, and office buildings, theaters,

auditoriums, schools, hotels, apartments, barracks, dormitories, jails, prisons, and reformatories, and other structures as determined by the CDHS. Condominiums are excluded from current recycled water use provisions.

Proposed Legislation

AB 1406 would add condominiums to the list of structures allowed to use recycled water for toilet and urinal flushing.

Benefits

This bill solves an existing problem where developers are reluctant to install recycled water plumbing in apartments (a currently authorized use) because of potential conversions to condominiums. Passage of the bill would help increase the use of recycled water and thereby help regional supply reliability in Southern California by expanding the market for recycled water to condominiums.

Policy

By Minute Item 42287, dated February 11, 1997, the Board adopted legislative policy principles for water recycling.

By Minute Item 42820, dated February 10, 1998, the Board added support of legislation and regulations that facilitate expanded uses of recycled water.

California Environmental Quality Act (CEQA)

CEQA determination for Options #1 and #2:

The proposed actions are not defined as a project under CEQA because they involve continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed actions in question may have a significant effect on the environment, the proposed actions are not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed actions are not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #3:

None required

Board Options

Option #1

Adopt the CEQA determination and

- a. Authorize sponsorship of and support for AB 1481; and
- b. Express support for AB 1406.

Fiscal Impact: None

Business Analysis: Proposed bills would help remove barriers to recycled water project development, which could lead to increased yield of member agency projects participating in Metropolitan's Local Resources Program.

Option #2

Adopt the CEQA determination and express support for AB 1481 and AB 1406.

Fiscal Impact: None

Business Analysis: Proposed bills would help remove barriers to recycled water project development, which could lead to increased yield of member agency projects participating in Metropolitan's Local Resources Program.

Option #3

Take no position on AB 1481 and/or AB 1406

Fiscal Impact: None

Business Analysis: Non-support of the bill could lessen Metropolitan's image as a steward of the region's water resources and miss an opportunity to increase statewide water recycling efforts.

Staff Recommendation

Option #1


Linda Waade
Deputy General Manager, External Affairs

3/29/2007
Date


Jeffrey Kightlinger
General Manager

3/29/2007
Date

Attachment 1 – Assembly Bill 1481

Attachment 2 – Assembly Bill 1406

BLA #5333

LEGISLATIVE COUNSEL'S DIGEST

Bill No. 1481

As introduced, De La Torre.

General Subject: Waste discharge requirements: landscape irrigation uses.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe water discharge requirements for the discharge of waste in accordance with the federal national pollutant discharge elimination (NPDES) permit program and the Porter-Cologne Water Quality Control Act (state act). The state act authorizes the state board or a regional board to prescribe general waste discharge requirements if certain requirements are met.

This bill would require the state board to adopt a general permit for the purpose of prescribing general waste discharge requirements that apply to landscape irrigation uses of recycled for which the State Department of Public Health has established uniform statewide recycling criteria. The bill would authorize the state board to establish a reasonable schedule of fees to reimburse the state board for the costs it incurs in adopting and administering the general permit. The bill would prescribe the manner in which an applicant may become subject to the general permit. The bill would require the state board to designate a person to coordinate and facilitate the issuance of specified water reclamation requirements and to assist in the implementation of the general permit program established by the bill.

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

An act to add Section 13552.5 to the Water Code, relating to water.

Whereas, on September 22, 1989, the United States Environmental Protection Agency (USEPA) granted the State of California, through the State Water Resources Control Board (State Board) and the Regional Boards, the authority to issue National Pollutant Discharge Elimination System (NPDES) permits pursuant to 40 Code of Federal Regulations (CFR) parts 122 and 123; and

Whereas 40 CFR section 122.28 provides for issuance of general permits to regulate a category of point sources if the sources:

- a. Involved the same or substantially similar types of operations;
- b. Discharge the same type of waste;

- c. Require the same type of effluent limitations or operating conditions;
 - d. Require similar monitoring;
 - e. Are more appropriately regulated under a general permit rather than individual permits;
- and

Whereas General waste discharge requirements and NPDES permits expedite the processing of requirements, simplify the application process for dischargers, better utilize limited staff resources, and avoid the expense and time involved in repetitive public noticing, hearings, and permit adoptions; and

Whereas Section 13050(n) of the Water Code defines “recycled water” as “water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource;” and

Whereas the Legislature has declared a policy for the State to undertake all possible steps to encourage development of water recycling facilities so that recycled water may be made available to help meet the growing requirements of the State; and

Whereas the Legislature has declared that the use of potable domestic water for non-potable uses, including, but not limited to, irrigation uses for cemeteries, golf courses, parks, and highway landscaped areas, is a waste and unreasonable use if recycled water is available to meet the conditions needed for the use; and

Whereas the Governor’s Recycled Water Task Force, convened pursuant to Assembly Bill 331 (Chapter 590, Statutes of 2001, hereinafter *Recycled Water Task Force*;) identified inconsistent, overly-restrictive regulation and the resultant added costs as a significant obstacle to realizing the full potential to reuse water in California; and

Whereas the Recycled Water Task Force recommended that the State Board should appoint and empower a key person to act as ombudsman and provide oversight of the water recycling permits issued by the various Regional Boards; and

Whereas the Legislature wishes to create uniform interpretation of State standards relating to the use of recycled water for landscape irrigation; and

Whereas the Legislature wishes to encourage the safe, reliable use of recycled water for landscape irrigation uses;

Now therefore, the Legislature does hereby enact the following:

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

SECTION 1. Section 13552.5 is added to the Water Code, to read:

13552.5. (a)(1) On or before July 31, 2009, the state board shall adopt a general permit for the purpose of prescribing general waste discharge requirements that apply to landscape irrigation uses of recycled water, including uses for parks, playgrounds, school yards, residential landscaping, and unrestricted access golf courses, for which the State Department of Public Health has established uniform statewide recycling criteria pursuant to Section 13521.

(2) For the purpose of developing the general permit and establishing eligibility criteria to carry out paragraph (1), the state board shall hold at least one workshop and shall consult with and consider comments from the regional boards and any party who has requested in writing to be consulted.

(b) The state board may establish a reasonable schedule of fees to reimburse the state board for the costs it incurs in adopting and administering the general permit described in subdivision (a).

(c) Following the adoption of the general permit pursuant to this section, an applicant may obtain coverage for a landscape irrigation use of recycled water by filing a notice of intent to be covered under the general permit and submitting the appropriate fee established pursuant to subdivision (b) to the state board.

(d) Coverage under the general permit adopted pursuant to this section is effective if all of the following apply:

(1) The applicant has submitted a completed application.

(2) The state board has determined that the applicant meets the eligibility criteria established pursuant to paragraph (2) of subdivision (a).

(3) The state board has made the application available for public review and comments for 30 days.

(4) The state board has consulted with the appropriate regional board.

(5) The executive officer of the state board approves the application.

(e) (1) A person eligible for coverage under the general permit pursuant to subdivision (d) is not required to become or remain subject to individual waste discharge requirements.

(2) A person who is subject to general or individual waste discharge requirements prescribed pursuant to Section 13263 or 13377 for a landscape irrigation use of recycled water may apply for coverage under the general permit adopted pursuant to this section in lieu of remaining subject to waste discharge requirements prescribed pursuant to those sections.

(f) (1) The state board shall designate an ombudsperson to coordinate and facilitate the issuance of water reclamation requirements pursuant to Section 13523 and to assist in the implementation of the general permit program established by this section to promote water recycling.

(2) The person appointed pursuant to paragraph (1) shall facilitate consultations between the state board and the regional boards relating to matters described in that paragraph.

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1406

Introduced by Assembly Member Huffman

February 23, 2007

An act to amend Section 13553 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1406, as introduced, Huffman. Recycled water: toilet and urinal flushing.

Existing law requires the State Department of Public Health to establish uniform statewide criteria for each varying type of recycled water use if the use involves the protection of public health. Existing law declares that the use of potable domestic water for toilet and urinal flushing in structures, as defined, is a waste or an unreasonable use of water if suitable recycled water is available for those uses. Existing law generally authorizes a public agency to require the use of recycled water for toilet and urinal flushing in structures if certain requirements are met.

This bill would include condominiums within the meaning of "structure" for the purposes of those provisions.

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

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

- 1 SECTION 1. Section 13553 of the Water Code is amended to
- 2 read:
- 3 13553. (a) The Legislature hereby finds and declares that the
- 4 use of potable domestic water for toilet and urinal flushing in

AB 1406

— 2 —

1 structures is a waste or an unreasonable use of water within the
2 meaning of Section 2 of Article X of the California Constitution
3 if recycled water, for these uses, is available to the user and meets
4 the requirements set forth in Section 13550, as determined by the
5 state board after notice and a hearing.

6 (b) The state board may require a public agency or person
7 subject to this section to furnish ~~whatever~~ *any* information *that*
8 may be relevant to making the determination required in
9 subdivision (a).

10 (c) For the purposes of this section and Section 13554,
11 “structure” or “structures” means commercial, retail, and office
12 buildings, theaters, auditoriums, *condominiums*, schools, hotels,
13 apartments, barracks, dormitories, jails, prisons, and reformatories,
14 and other structures as determined by the State Department of
15 ~~Health Services~~ *Public Health*.

16 (d) Nothing in this section or Section 13554 applies to a pilot
17 program adopted pursuant to Section 13553.1.

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