



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

May 12, 2009 Board Meeting

8-6

Subject

Express opposition to SB 565 (Pavley, D-Santa Monica) unless amended – Water recycling

Description

SB 565, as amended April 13, 2009 ([Attachment 1](#)), by Senator Fran Pavley and sponsored by the Planning and Conservation League, proposes the development and implementation of a plan to recycle at least 50 percent of the state's current wastewater discharge to the ocean by 2030. Specifically, SB 565 would require the State Water Resources Control Board (SWRCB) in consultation with the Department of Water Resources and the State Department of Public Health to develop a wastewater recycling plan. The plan must ensure that at least 50 percent of wastewater that is discharged to the ocean is recycled and put to beneficial use by 2030. The bill would impose a fee on ocean dischargers, which would be collected by the SWRCB and revenues from the fee would be deposited into a new Ocean Discharge Recycling Fund. The SWRCB, upon appropriation from the Legislature, would be authorized to use the funds to implement the plan. Staff is recommending that Metropolitan oppose the bill unless amended to:

- Remove the fee to eliminate equity concerns among dischargers;
- Change the wastewater recycling and implementation plan to a report to the Legislature; and
- Specify that the scope of the report should include:
 - Identification of locally cost-effective levels of recycling;
 - Specific state policy improvements to increase the production and use of recycled water;
 - Consideration of inland discharges; and
 - Funding options.

This recommendation is consistent with the Board's adopted policy principles on water recycling for developing new financing and encouraging cooperation and partnerships to foster workable strategies for recycled water project implementation ([Attachment 2](#)).

Background

In February 2009, the SWRCB adopted a Statewide Recycled Water Policy with the goal of increasing recycled water use in California by 2 million acre-feet (MAF) per year by 2030. The SWRCB declared that it is a waste and unreasonable use of water if entities do not use recycled water when there exists adequate quality and quantity for beneficial use. In 2003, the Recycled Water Task Force estimated that up to an additional 1.2 MAF could be delivered through recycling municipal wastewater discharged to the ocean.

Metropolitan has a stake in increasing recycled water production to reduce demand on imported water supplies. The California Water Plan estimated that approximately 500,000 acre-feet (AF) of water is recycled annually, of which approximately 209,000 AF is used in Metropolitan's service area. In fiscal year 2007/08, approximately 116,000 AF of recycled water was produced through Metropolitan's Local Resources Program which helps achieve Metropolitan's Integrated Resources Plan regional target of 750,000 AF by 2025 for local resources, which includes recycling, groundwater treatment and seawater desalination. Increasing water recycling is dependent on securing capital funding, obtaining permits and achieving public acceptance. If amended as

outlined, SB 565 would lead to a report that addresses solutions to constraints and is expected to contribute to increasing the amount of recycled water available in the state.

Existing Law

The SWRCB and California Regional Water Quality Control boards are the principal agencies with authority over matters relating to wastewater discharge and water recycling. Existing law requires specified waste dischargers to pay an annual fee to the SWRCB.

Impact to Metropolitan

The policies set forth in SB 565 are consistent with Metropolitan's adopted policy principles on water recycling to support legislative proposals to develop new financing for water recycling to increase recycled water in California and the Colorado River Basin. Availability of additional recycled water would benefit Metropolitan by reducing imported water demand. With staff's recommended amendments, the legislative report would lead to additional cost-effective water recycling solutions.

Several organizations, including the Association of California Water Agencies, California Association of Sanitation Districts, Cal-Tax and the Sanitation Districts of Los Angeles County have significant concerns and are opposing SB 565 over concerns including costs, timelines and equity issues. Staff believes the bill could damage cooperative relationships among the discharger/recycled water community unless it is amended. According to the Senate Committee on Natural Resources and Water policy analysis, Heal the Bay, the Natural Resource Defense Council, Sierra Club California and Sonoma County Water Agency are supporting the legislation.

Policy

By Minute Item 42287, dated February 11, 1997, the Board adopted a set of policy principles on water recycling.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves 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 action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b) (3) of the State CEQA Guidelines).

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

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's opposition to SB 565, unless amended as described in this board letter.

Fiscal Impact: None

Business Analysis: Development of a wastewater recycling plan would identify ways to increase the supply and potential use of recycled water thus improving supply reliability.

Option #2

Take no position on SB 565.

Fiscal Impact: None

Business Analysis: If the bill advances, as written, ocean dischargers would be charged an unspecified fee to develop and implement a wastewater recycling plan potentially reducing cooperative relationships and cost-effective implementation strategies.

Staff Recommendation

Option #1


Linda D. Waade
Deputy General Manager, External Affairs

5/5/2009
Date


Jeffrey Kightlinger
General Manager

5/5/2009
Date

Attachment 1 – Senate Bill 565

Attachment 2 – Metropolitan Policy Principle on Water Recycling

BLA #6728

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 565

Introduced by Senator Pavley

February 27, 2009

An act to add Part 5.5 (commencing with Section 12567) to Division 6 of the Water Code, relating to water recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 565, as amended, Pavley. Water recycling.

Existing law establishes the State Water Resources Control Board (~~state board~~) and the California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law requires specified persons who discharge waste, as defined, in a manner that could affect the quality of the waters of the state, to pay an annual fee to the state board according to a fee schedule established by the ~~state~~ board.

This bill would require the ~~state~~ board, *in consultation with the Department of Water Resources and the State Department of Public Health*, to develop a plan to ensure that at least 50% of wastewater that is annually discharged into the ocean, as of the year 2009, is recycled and put to beneficial use by the year 2030. The bill would prescribe various requirements with respect to that plan. The bill would require the ~~state~~ board to impose a fee on each person discharging wastewater into the ocean and would require that fee to be deposited into the Ocean Discharge Recycling Fund, which the bill would establish. The bill would authorize the ~~state~~ board to expend the moneys in that fund, upon appropriation by the Legislature, for the purposes of carrying out the wastewater recycling plan.

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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. Part 5.5 (commencing with Section 12567) is
2 added to Division 6 of the Water Code, to read:

3

4 PART 5.5. OCEAN DISCHARGE RECYCLING PLAN

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6 CHAPTER 1. GENERAL PROVISIONS

7

8 *12567. The Legislature finds and declares the following:*

9 (a) *Each year, urban water users in California discharge*
10 *approximately 3,500,000 to 4,000,000 acre-feet of wastewater into*
11 *the ocean. Unlike discharges into rivers and streams, which can*
12 *be recaptured downstream and reused, ocean discharges are not*
13 *reused. This water is truly wasted.*

14 (b) *Urban California continues to grow. The Department of*
15 *Finance projects California’s population to reach almost*
16 *60,000,000 people by the year 2050, an increase of over*
17 *25,000,000 people since the 2000 decennial census. These new*
18 *Californians will need water.*

19 (c) *It is critical that California find new ways to accommodate*
20 *growth, with its resultant increase in water demand, in a manner*
21 *that is as environmentally benign as possible.*

22 (d) *Water recycling has long been recognized as a method of*
23 *helping to meet California’s water needs that is cost-effective and*
24 *not affected by drought.*

25 ~~12567.~~

26 *12567.1.* For the purposes of this part, the following terms have
27 the following meanings:

28 (a) “Fee” means the annual fee imposed pursuant to subdivision
29 (a) of Section 12568.

30 ~~(a)~~

31 (b) “Fund” means the Ocean Discharge Recycling Fund
32 established pursuant to subdivision (a) of Section 12568.4.

33 ~~(b)~~

34 (c) “Plan” means the statewide plan adopted pursuant to Section
35 12567.2.

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1 12567.2. (a) ~~The state board~~ board, in consultation with the
2 department and the State Department of Public Health, shall adopt
3 a statewide plan to ensure that at least 50 percent of the wastewater
4 annually discharged directly into the ocean, as of the year 2009,
5 is recycled and put to beneficial use by the year 2030.

6 (b) The plan shall do all of the following:

7 (1) Identify the amount of water discharged directly into the
8 ocean, the San Francisco Bay, and any other enclosed bay in the
9 state, during the 2009 calendar year.

10 (2) Establish a statewide ocean discharge recycling goal that
11 is one-half of the amount identified pursuant to paragraph (1).

12 (3) Identify all regulatory, financial, engineering, jurisdictional,
13 and other impediments to meeting the statewide ocean discharge
14 recycling goal.

15 (4) Identify all impediments to direct potable reuse of the water
16 described in paragraph (1).

17 (5) Develop specific actions and strategies to remove the
18 impediments identified pursuant to paragraphs (3) and (4).

19 (c) In developing the plan, the board shall seek input from
20 wastewater dischargers, urban water suppliers, local government
21 agencies, and other interested parties.

22 (d) The board may appoint an advisory committee, task force,
23 or any other group or groups that the board determines to be
24 necessary or desirable to assist the board in implementing this
25 part.

26 (e) Upon adoption of the plan, the board shall submit copies of
27 the plan to the Governor and the Legislature.

28 ~~(b) The state~~

29 (f) The board shall adopt measures that are necessary to
30 implement the plan.

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32

CHAPTER 2. FINANCING

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34 12568. (a) ~~The state~~ board shall impose an annual fee on
35 discharges of wastewater into the ocean, subject to the following
36 requirements:

37 (1) The fee shall be imposed on each person that discharges
38 wastewater directly into the ocean, as determined by the ~~state~~
39 board.

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1 (2) The fee shall be in addition to any fees imposed pursuant to
2 Section 13260.

3 (3) The fee shall be in an amount that is necessary to reimburse
4 ~~the state board's board, the department, and the State Department~~
5 *of Public Health* for the costs of developing the plan and any
6 measures implementing the plan pursuant to Section 12567.2.

7 (4) ~~The state board~~ shall adopt a fee schedule and a timetable
8 for purposes of collecting the fee.

9 (5) The fee shall be collected in the same manner as set forth
10 in Section 13260.

11 (b) ~~The state board~~ shall adopt regulations to implement the fee
12 collection procedures *set forth* in this section.

13 12568.2. Each person that is subject to the fee shall pay an
14 annual fee to ~~the state board~~ in accordance with Section 12568.

15 12568.4. (a) All fees collected pursuant to this chapter shall
16 be deposited in the Ocean Discharge Recycling Fund, which is
17 hereby established in the State Treasury.

18 (b) The moneys in the fund shall be available for expenditure
19 by ~~the state board~~, upon appropriation by the Legislature, for the
20 purposes of carrying out this part.

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Metropolitan Water District of Southern California

POLICY PRINCIPLE ON

WATER RECYCLING

Issue: Promote water recycling and to guide staff regarding regulatory and legislative review with respect to financing, resource management, institutional arrangements, regulatory flexibility and public awareness.

Policy Adopted:

- Support federal and state regulatory and legislative proposals to develop new financing for water recycling consistent with the following objectives:
 - Increased water recycling in California and the Colorado River Basin.
 - Research leading to advances in science and technology, health effects assessments, facility and regional planning, desalting and innovative demonstration projects.
 - Streamlining administrative procedures for state low interest-rate loans and federal grants for projects and research.
- Support legislation and regulations that protect or improve the quality of wastewater and source water supplies from constituent concentrations that are adverse to recycled water use.
- Support legislation that encourages voluntary cooperation and partnership among involved agencies to foster workable strategies for recycled water project implementation.
- Support continuous review, appropriate revision and streamlining of water recycling regulations and uniform administration consistent with experience gained in operations, public health and environmental protection.
- Support legislation and regulations that serve to increase public education and awareness of water recycling, its benefits and safety.
- Support legislation and regulations that expand the types of recycled water uses consistent with protection of public health.

M.I. 42287 - February 11, 1997; 6th bullet point added by M.I. 42820 - February 10, 1998.