



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

May 12, 2009 Board Meeting

8-7

Subject

Express support for SB 790 (Pavley, D–Santa Monica) – Resources: water quality: stormwater management

Description

Senate Bill 790, as amended April 22, 2009 ([Attachment 1](#)), authored by Senator Fran Pavley, Chair of the Senate Natural Resources and Water Committee, and sponsored by TreePeople, would amend the Watershed, Clean Beaches, and Water Quality Act of the Public Resources Code to authorize the State Water Resources Control Board, in consultation with the State Coastal Conservancy, to also award grants, not to exceed \$5 million per project, to public agencies and nonprofit organizations for: (1) projects designed to implement or promote low impact development that will contribute to the improvement of water quality or reduce stormwater runoff; and (2) projects designed to implement specified stormwater management plans.

Additionally, the bill would add the Stormwater Management Planning Act to the Water Code, authorizing that a city, county, or special district, either individually or jointly, may develop a stormwater management plan that shall do all of the following: (1) be developed on a watershed basis; (2) provide multiple benefit project design to maximize water supply, water quality and environmental and other community benefits; (3) provide for community participation in plan development and implementation; (4) assist in compliance with total maximum daily load (TMDL) implementation plans and applicable national pollution discharge elimination system (NPDES) permits; (5) be consistent with all applicable waste discharge permits; and (6) be consistent with any applicable integrated regional water management plan.

The bill further identifies specific items the stormwater management plans shall be designed to do, including: (1) augment local water supply through groundwater recharge or storage for beneficial reuse of stormwater; (2) prioritize source control, onsite and local infiltration and reuse of stormwater; (3) reestablish natural water drainage treatment and infiltration systems, or mimic natural system functions to the maximum extent feasible; (4) include requirements for new and upgraded infrastructure and development to meet design criteria and best management practices to prevent stormwater pollution and increase effective stormwater management (permeable surfaces, retention basins, cisterns, low impact development, sustainable development using low impact techniques); (5) identify opportunities to develop or enhance habitat and open space, including wetlands, riverside habitats, parkways, and parks; and (6) identify activities that generate or contribute to pollution of stormwater, or that impair the effective beneficial use of stormwater.

Finally, the bill would amend the Integrated Regional Water Management Planning Act of the Water Code to authorize that a regional water management group may coordinate its planning activities to also address or incorporate into its plan any stormwater management planning that is undertaken pursuant to the proposed Stormwater Management Planning Act.

Background

The Watershed, Clean Beaches and Water Quality Act and Public Resources Code, Division 20.4, Chapter 3, commencing with Section 30916 (enacted pursuant to AB 2534 by then-Assembly Member Fran Pavley, chaptered September 20, 2002), among other things, authorized the State Water Resources Control Board, in consultation with the State Coastal Conservancy, to award grants, not to exceed \$5 million per project to public agencies and nonprofit organizations for any of the following projects: (1) projects designed to improve water

quality at public beaches and to make improvements for the purpose of ensuring that coastal waters adjacent to public beaches meet prescribed Health and Safety Code bacteriological standards; (2) projects to make improvements to, or upgrades or conversions of, existing sewer collection systems and septic systems for the restoration and protection of coastal water quality; and (3) projects designed to implement stormwater and runoff reduction and prevention programs, or for the implementation of best management practices, for the restoration and protection of coastal water quality.

The Integrated Regional Water Management Planning Act and Water Code, Division 6, Part 2.2, Chapter 1, commencing with Section 10530 (enacted pursuant to SB 1672 by former Senator Jim Costa, chaptered September 21, 2002; SB 1XXX by former Senator Don Perata, chaptered September 30, 2008, which repealed the original Act and enacted a new Integrated Regional Water Management Planning Act) authorizes regional water management groups to prepare and adopt integrated regional water management plans meeting specified requirements. A regional water management group may coordinate its planning activities to address or incorporate all or part of any of the following actions of its members into its plan: (1) groundwater management planning; (2) urban water management planning; (3) the preparation of a water supply assessment required pursuant to the Water Code; (4) agricultural water management planning pursuant to the Water Code; (5) city and county general planning pursuant to the Government Code; and (6) other water resource management planning, including flood protection, watershed management planning, and multipurpose program planning.

Analysis

As Metropolitan's Lake Mathews and Lake Skinner watersheds see continued development in the future, Metropolitan could see improvements to source water quality from this legislation through grant awards to local jurisdictions within these watersheds for projects designed to implement or promote low impact development that will contribute to improvement of water quality or reduce stormwater runoff. Additionally, awarding of grants to such local jurisdictions for projects designed to implement stormwater management plans could also provide potential benefits to source water quality within Metropolitan's reservoir watersheds.

Enactment of the Stormwater Management Planning Act would allow for local jurisdictions to develop stormwater management plans. These jurisdictions would be encouraged to seek available grants for projects designed to implement such stormwater management plans. Additionally, there would be the potential for coordination and incorporation of such stormwater management plans with the integrated regional water management plans prepared by regional water management groups through the proposed amendment to the Integrated Regional Water Management Planning Act. Coordinated local and regional management of stormwater will benefit Metropolitan's source water protection efforts.

It should be noted that this legislation does not require cities, counties and special districts to develop stormwater management plans and only states that they may develop such plans. If such jurisdictions choose to develop such stormwater management plans, there are set requirements for what needs to be included within these plans. In general, these requirements are not in conflict with current requirements for applicable discharge permits and must be consistent with applicable integrated regional water management plans.

Policy

By Minute Item 43964, dated April 11, 2000, the Board adopted the Watershed Management Policy Principles.

By Minute Item 42820, dated February 10, 1998, the Board adopted the Source Water Quality Protection Policy Principles.

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 support for SB 790, as amended April 22, 2009.

Fiscal Impact: None

Business Analysis: Metropolitan could see source water quality improvements in the watersheds of its service area and in the state watersheds of its imported water supply sources through local jurisdictions in these watersheds who seek and receive grants from the State Water Resources Control Board. Additionally, Metropolitan could realize source water quality benefits from those local jurisdictions in such watersheds that choose to develop stormwater management plans.

Option #2

Take no position on SB 790, as amended April 22, 2009.

Fiscal Impact: None

Business Analysis: Metropolitan does not have jurisdiction and control over development and resulting stormwater runoff water quality and quantity within the watersheds of its service area or within the watersheds of its imported water supply sources. Many of these watersheds face ongoing development pressures. Low impact development and other projects to implement stormwater management plans, as well as the development of stormwater management plans, could result in source water quality benefits to Metropolitan. Failure to support state grant funding programs to assist local jurisdictions to implement stormwater management projects and failure to support the development of stormwater management plans could adversely impact Metropolitan’s source water quality.

Staff Recommendation

Option #1

	5/5/2009
Linda Waade Deputy General Manager, External Affairs	Date
	5/5/2009
Jeffrey Kightlinger General Manager	Date

Attachment 1 – Senate Bill 790, as amended April 22, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 790

Introduced by Senator Pavley

February 27, 2009

An act to amend Section 30916 of the Public Resources Code, and to amend Section 10540 of, and to add Part 2.3 (commencing with Section 10560) to Division 6 of, the Water Code, relating to resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 790, as amended, Pavley. ~~Coastal resources: project grants.~~
Resources: water quality: stormwater management.

(1) The Watershed, Clean Beaches, and Water Quality Act; authorizes the Water Resources Control Board, in consultation with the State Coastal Conservancy, to award grants to public agencies and nonprofit organizations for projects designed to restore and protect the water quality and environment of coastal waters, estuaries, bays, and near shore waters, including, among other things, a project to make improvements to, or upgrades or conversions of, existing sewer collection systems and septic systems for the restoration and protection of coastal water quality.

This bill would also authorize grants for projects designed to implement or promote low impact development that will contribute to the improvement of water quality or reduce stormwater runoff and for projects designed to implement specified stormwater management plans.

(2) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES)

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permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters.

This bill would authorize a city, county, or special district to develop, jointly or individually, stormwater management plans that meet certain requirements. The bill would ~~require a regional water management plan prepared by~~ *authorize a regional water management group to coordinate its planning activities to address or incorporate into its plan any* stormwater management planning that is undertaken pursuant to the bill's 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 30916 of the Public Resources Code is
2 amended to read:

3 30916. (a) Upon appropriation by the Legislature, funds
4 provided under this chapter may be used by the board, in
5 consultation with the State Coastal Conservancy, to award grants
6 not to exceed five million dollars (\$5,000,000) per project to public
7 agencies and nonprofit organizations for the purposes of this
8 chapter. Grants may be awarded for any of the following projects:

9 (1) A project designed to improve water quality at public
10 beaches and to make improvements for the purpose of ensuring
11 that coastal waters adjacent to public beaches meet the
12 bacteriological standards set forth in Article 2 (commencing with
13 Section 115875) of Chapter 5 of Part 10 of Division 104 of the
14 Health and Safety Code.

15 (2) A project to make improvements to, or upgrades or
16 conversions of, existing sewer collection systems and septic
17 systems for the restoration and protection of coastal water quality.

18 (3) A project designed to implement stormwater and runoff
19 pollution reduction and prevention programs, or for the
20 implementation of best management practices, for the restoration
21 and protection of coastal water quality.

22 (4) A project designed to implement or promote low impact
23 development that will contribute to the improvement of water
24 quality or reduce stormwater runoff.

1 (5) A project designed to implement a stormwater management
2 plan prepared pursuant to Part 2.3 (commencing with Section
3 10560) of Division 6 of the Water Code.

4 (b) The projects funded pursuant to this chapter shall be
5 consistent with the state's nonpoint source control program, as
6 revised to meet the requirements of Division 20 (commencing with
7 Section 30000), Section 6217 of the federal Coastal Zone Act
8 Reauthorization Amendments of 1990, Section 319 of the federal
9 Clean Water Act (33 U.S.C. Sec. 1329), Division 7 (commencing
10 with Section 13000) of the Water Code, and the California Coastal
11 Commission.

12 (c) The projects funded pursuant to this chapter shall
13 demonstrate the capability of contributing to sustained, long-term
14 water quality or environmental restoration or protection benefits
15 for a period of 20 years, address the causes of degradation, rather
16 than the symptoms, and be consistent with water quality and
17 resource protection plans prepared, implemented, or adopted by
18 the board, the applicable regional water quality control board, and
19 the State Coastal Conservancy.

20 (d) An applicant for funds under this chapter shall be required
21 to submit to the board a monitoring and reporting plan that does
22 all of the following:

23 (1) Identifies the nonpoint source or sources of pollution to be
24 prevented or reduced by the project.

25 (2) Describes the baseline water quality or environmental quality
26 to be addressed.

27 (3) Describes the manner in which the project will be effective
28 in preventing or reducing pollution and in demonstrating the
29 desired environmental results.

30 (4) Describes the monitoring program, including, but not limited
31 to, the methodology, and the frequency and duration of monitoring.

32 (e) Upon completion of the project, a recipient of funds under
33 this chapter shall submit a report to the board that summarizes the
34 completed activities and indicates whether the purposes of the
35 project have been met. The report shall include information
36 collected by the recipient in accordance with the project monitoring
37 and reporting plan, including a determination of the effectiveness
38 of the project in preventing or reducing pollution, and the results
39 of the monitoring program. The board shall make the report

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1 available to the public, watershed groups, and federal, state, and
2 local agencies.

3 (f) Not more than 25 percent of a grant may be awarded in
4 advance of actual expenditure.

5 (g) An applicant for funds under this chapter shall inform the
6 board of any necessary public agency approvals, entitlements, and
7 permits that may be necessary to implement the project. The
8 application shall certify to the board, at the appropriate time, that
9 those approvals, entitlements, and permits have been granted.

10 (h) Where recovery plans for coho salmon, steelhead trout, or
11 other threatened or endangered aquatic species exist, projects
12 funded under this chapter shall be consistent with those plans and,
13 to the extent feasible, shall seek to implement actions specified in
14 those plans.

15 (i) The board shall appoint a Clean Beaches Task Force
16 comprised of individuals representing the breadth and diversity of
17 coastal communities. All proposals for funding shall be reviewed
18 by the task force. The task force may recommend projects to the
19 board for funding consideration.

20 SEC. 2. Section 10540 of the Water Code is amended to read:

21 10540. (a) A regional water management group may prepare
22 and adopt an integrated regional water management plan in
23 accordance with this part.

24 (b) A regional water management group may coordinate its
25 planning activities to address or incorporate all or part of any of
26 the following actions of its members into its plan:

27 (1) Groundwater management planning pursuant to Part 2.75
28 (commencing with Section 10750) or other specific groundwater
29 management authority.

30 (2) Urban water management planning pursuant to Part 2.6
31 (commencing with Section 10610).

32 (3) The preparation of a water supply assessment required
33 pursuant to Part 2.10 (commencing with Section 10910).

34 (4) Agricultural water management planning pursuant to Part
35 2.8 (commencing with Section 10800).

36 (5) City and county general planning pursuant to Section 65350
37 of the Government Code.

38 (6) *Stormwater management planning that is undertaken*
39 *pursuant to Part 2.3 (commencing with Section 10560).*

40 (~~6~~)

1 (7) Other water resource management planning, including flood
2 protection, watershed management planning, and multipurpose
3 program planning.

4 (c) At a minimum, all plans shall address all of the following:

5 (1) Protection and improvement of water supply reliability,
6 including identification of feasible agricultural and urban water
7 use efficiency strategies.

8 (2) Identification and consideration of the drinking water quality
9 of communities within the area of the plan.

10 (3) Protection and improvement of water quality within the area
11 of the plan, consistent with the relevant basin plan.

12 (4) Identification of any significant threats to groundwater
13 resources from overdrafting.

14 (5) Protection, restoration, and improvement of stewardship of
15 aquatic, riparian, and watershed resources within the region.

16 ~~(6) Stormwater management planning that is undertaken~~
17 ~~pursuant to Part 2.3 (commencing with Section 10560).~~

18 ~~_____~~
19 ~~(6) Protection of groundwater resources from contamination.~~

20 ~~(8)~~

21 (7) Identification and consideration of the water-related needs
22 of disadvantaged communities in the area within the boundaries
23 of the plan.

24 (d) This section does not obligate a local agency to fund the
25 implementation of any project or program.

26 SEC. 3. Part 2.3 (commencing with Section 10560) is added
27 to Division 6 of the Water Code, to read:

28
29 **PART 2.3. STORMWATER MANAGEMENT PLANNING**

30
31 10560. This part shall be known and may be cited as “The
32 Stormwater Management Planning Act.”

33 10561. The Legislature hereby finds and declares all of the
34 following:

35 (a) In many parts of the state stormwater is a source of surface
36 water and groundwater contamination, contributing to a loss of
37 usable water supplies, and the pollution and impairment of rivers,
38 lakes, streams, and coastal waters.

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1 (b) Improved management of stormwater can reduce pollution
2 and increase uncontaminated supplies of water for beneficial uses
3 and the environment.

4 (c) Most of California's current stormwater drainage systems
5 are designed to capture and convey water away from people and
6 property rather than capturing that water for beneficial uses.

7 (d) Historical patterns of precipitation are predicted to change
8 and an increasing amount of California's water is predicted to fall
9 not as snow in the mountains, but as rain in the valleys and on the
10 coast. This will likely have a profound and transforming effect on
11 California's hydrologic cycle and much of that water will no longer
12 be captured by California's reservoirs, many of which are located
13 to capture snow melt.

14 (e) Stormwater, properly managed, can contribute significantly
15 to local water supplies through onsite storage and reuse, or letting
16 it percolate into the ground to recharge groundwater, thereby
17 increasing available supplies of drinking water.

18 (f) New developments and redevelopments should be designed
19 consistent with low impact development principles to improve the
20 retention, reuse, and percolation of stormwater onsite.

21 (g) Stormwater can be managed to achieve environmental
22 benefits such as wetland creation, riverside habitats, and instream
23 flows.

24 10562. (a) A city, county, or special district, either individually
25 or jointly, may develop a stormwater management plan pursuant
26 to this part.

27 (b) Stormwater management plans shall do all of the following:

28 (1) Be developed on a watershed basis.

29 (2) Provide for multiple benefit project design to maximize
30 water supply, water quality, and environmental and other
31 community benefits.

32 (3) Provide for community participation in plan development
33 and implementation.

34 (4) Assist in compliance with total maximum daily load (TMDL)
35 implementation plans and applicable national pollutant discharge
36 elimination system (NPDES) permits.

37 (5) Be consistent with all applicable waste discharge permits.

38 (6) Be consistent with any applicable integrated regional water
39 management plan.

- 1 (c) Stormwater management plans shall be designed to do all
- 2 of the following:
- 3 (1) Augment local water supply through groundwater recharge
- 4 or storage for beneficial reuse of stormwater.
- 5 (2) Prioritize source control, onsite and local infiltration, and
- 6 reuse of stormwater.
- 7 (3) Reestablish natural water drainage treatment and infiltration
- 8 systems, or mimic natural system functions to the maximum extent
- 9 feasible.
- 10 (4) Include requirements for new and upgraded infrastructure
- 11 and development to meet design criteria and best management
- 12 practices to prevent stormwater pollution and increase effective
- 13 stormwater management. These design criteria and best
- 14 management practices should accomplish all of the following:
- 15 (A) Reduce effective impermeability within a watershed by
- 16 creating or connecting to permeable surfaces, retention basins,
- 17 cisterns, and other storage for beneficial reuse.
- 18 (B) Support low impact development and sustainable
- 19 redevelopment using low impact techniques.
- 20 (5) Identify opportunities to develop or enhance habitat and
- 21 open space, including wetlands, riverside habitats, parkways, and
- 22 parks.
- 23 (6) Identify activities that generate or contribute to the pollution
- 24 of stormwater, or that impair the effective beneficial use of
- 25 stormwater.