



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

3/14/2017 Board Meeting

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**8-6**

**Subject**

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Adopt CEQA determination and express support, and seek amendment, for AB 574 (Quirk, D-Hayward) - Potable Reuse

**Executive Summary**

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AB 574 (Quirk, D-Hayward) amends Water Code Sections 13560 and 13561 to subdivide three existing categories of potable reuse (“indirect potable reuse for groundwater recharge,” “surface water augmentation,” and “direct potable reuse”) into four easily understandable categories (“ground water augmentation,” “reservoir augmentation,” “raw water augmentation,” and “treated water augmentation”). AB 574 would also require the State Water Resources Control Board (SWRCB) to meet specific timelines to establish both a regulatory framework for potable reuse and specific recycling criteria for raw water augmentation. The proposed amendment to AB 574 would clarify that “reservoir augmentation” also includes the planned placement of recycled water into constructed conveyance systems upstream of reservoirs.

**Details**

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In 1991, California first set a water recycling goal of 1,000,000 acre-feet per year by the year 2010 (Water Recycling Act of 1991). In 2009, the SWRCB set a new goal of increasing the amount of recycled water by 1,000,000 acre-feet (from 2002 levels) by the year 2020 (SWRCB Resolution No. 2009-0111, Recycled Water Policy). Despite these policy objectives, and despite \$625 million in grants and loans available for water recycling through Proposition 1, California still lags in meeting these goals.

One reason for the slow adoption of water recycling in California has been regulatory uncertainty about needed performance standards and technologies. As an example, groundwater recharge regulations did not change between 1978 and 2014. Although large groundwater recycling projects did move forward in the intervening years using draft criteria, the lack of regulatory certainty may have slowed their rate of growth.

In 2010, SB 918 (Pavley, D-Agoura Hills) became law and required the adoption of groundwater recharge regulations by December 31, 2013, and surface water augmentation regulations by December 31, 2016. Though neither deadline was met, the groundwater recharge regulations were adopted in 2014, and the surface water augmentation regulations should be finalized this year. Metropolitan supported passage of SB 918.

AB 574 ([Attachment 1](#)) builds upon SB 918 in two ways. First, AB 574 would remove the fuzzy labels of “indirect potable reuse” and “direct potable reuse” and, instead, classify potable reuse by its placement. Thus, potable reuse would be labeled as “groundwater augmentation,” “reservoir augmentation,” “raw water augmentation,” (i.e., aqueducts and pipelines upstream of a drinking water treatment plant) or “treated water augmentation” (i.e., distribution systems directly connected to the consumer). These definitions do not specifically address the situation where recycled water is placed into constructed water conveyance systems upstream of reservoirs. The proposed amendments would clarify that this situation falls under the definition of “reservoir augmentation.”

AB 574 also specifies deadlines for the SWRCB to establish a framework for regulating potable reuse projects (by June 1, 2018) and criteria for raw water augmentation (by December 31, 2021). AB 574 provides some flexibility

in the raw water augmentation deadline by allowing an 18-month (or longer) extension if the research recommended within the SWRCB's 2016 report titled "Investigation on the Feasibility of Developing Uniform Water Recycling Criteria for Direct Potable Reuse" is not satisfactorily complete.

Co-sponsors of the bill include California Coastkeeper Alliance and WaterReuse California. Support of or opposition to the bill is unknown at this time.

### **Impact to Metropolitan**

Metropolitan supports water recycling as part of an "all-of-the-above" water resource strategy for Southern California. The 2015 update to the Integrated Water Resources Plan identified a need for 230,000 acre-feet of additional local supplies by 2040. In fiscal year 2015/16, recycled water projects supported by Metropolitan produced 178,000 acre-feet of water. By clarifying the classifications of potable reuse projects based on their placement of recycled water, AB 574 may accelerate the deployment of recycled water in the region. Furthermore, criteria for raw water augmentation could also expand the available water sources where water could be placed from Metropolitan's proposed Regional Recycled Water Project. The proposed amendments would clarify that placement of recycled water into constructed conveyance systems upstream of reservoirs, such as placement into the California Aqueduct or Colorado River Aqueduct would be included in the definitions of potable reuse projects and thus covered by the regulatory framework and specific water recycling criteria.

### **Policy**

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By Minute items 50703 and 50704, dated January 10, 2017, the Board adopted state Legislative priorities and Principles for 2017/18 as amended.

### **California Environmental Quality Act (CEQA)**

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#### **CEQA determination for Option #1**

The proposed action is not defined as a project under CEQA because it involves legislative proposals that do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (CEQA Section 21065 and Section 15378(b)(1) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not defined as a project under CEQA pursuant to CEQA Section 21065, as well as Section 15378(b)(1) of the State CEQA Guidelines.

#### **CEQA determination for Option #2**

None required.

### **Board Options**

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#### **Option #1**

Adopt the CEQA determination that the proposed action is not defined as a project under CEQA, and  
Authorize the General Manager to express support, and seek an amendment, for AB 574.

**Fiscal Impact:** None

**Business Analysis:** Additional development and use of recycled water could increase water supply reliability within Southern California and meet a goal of 230,000 acre-feet of additional local water supplies identified in the 2015 Integrated Water Resources Plan.

#### **Option #2**

Take no position on AB 574

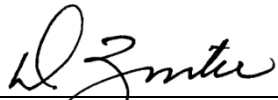
**Fiscal Impact:** None

**Business Analysis:** Without additional alternatives available for producing and using recycled water, the growth of this resource in the region could be slowed.

**Staff Recommendation**

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Option #1

  
\_\_\_\_\_  
Dee Zinke  
Assistant General Manager/Chief External  
Affairs Officer

3/8/2017

Date

  
\_\_\_\_\_  
Jeffrey Kightlinger  
General Manager

3/8/2017

Date

**Attachment 1 – Assembly Bill 574, as introduced 2/14/17**

Ref# ea12650964

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL****No. 574****Introduced by Assembly Member Quirk**

February 14, 2017

An act to amend Sections 13560 and 13561 of, to amend the heading of Chapter 7.3 (commencing with Section 13560) of Division 7 of, and to add Section 13561.2 to, the Water Code, relating to water.

## LEGISLATIVE COUNSEL'S DIGEST

AB 574, as introduced, Quirk. Potable reuse.

Existing law establishes the State Water Resources Control Board and the California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law required the State Department of Public Health to, on or before December 31, 2013, adopt uniform water recycling criteria for indirect potable reuse for groundwater recharge. Existing law also required the department to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel found that the criteria would adequately protect public health and required the department to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse and to provide a final report on that investigation to the Legislature by December 31, 2016. Existing law defined the terms "direct potable reuse," "indirect potable reuse for groundwater recharge," and "surface water augmentation" for these purposes. Existing law transferred these powers and responsibilities to the State Water Resources Control Board on July 1, 2014.

This bill would remove certain references to "direct potable reuse," "indirect potable reuse for groundwater recharge," and "surface water

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augmentation,” and would instead specify the four different types of potable reuse projects as “potable reuse through groundwater augmentation,” “potable reuse through reservoir augmentation,” “potable reuse through raw water augmentation,” and “potable reuse through treated water augmentation.”

The bill would require the state board, on or before June 1, 2018, to establish a framework for the regulation of potable reuse projects that includes specified elements. The bill would require the state board, on or before December 31, 2021, to adopt uniform water recycling criteria for potable reuse through raw water augmentation, as specified, and would allow the board to extend this date if certain criteria is met.

This bill would make certain findings and declarations relating to potable reuse.

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. The heading of Chapter 7.3 (commencing with  
2 Section 13560) of Division 7 of the Water Code is amended to  
3 read:

4  
5 CHAPTER 7.3. ~~DIRECT AND INDIRECT POTABLE REUSE~~  
6

7 SEC. 2. Section 13560 of the Water Code is amended to read:  
8 13560. The Legislature finds and declares the following:

9 (a) In February 2009, the state board unanimously adopted, as  
10 Resolution No. 2009-0011, an updated water recycling policy,  
11 which includes the goal of increasing the use of recycled water in  
12 the state over 2002 levels by at least 1,000,000 acre-feet per year  
13 by 2020 and by at least 2,000,000 acre-feet per year by 2030.

14 (b) Section 13521 requires the department to establish uniform  
15 statewide recycling criteria for each varying type of use of recycled  
16 water where the use involves the protection of public health.

17 ~~(c) The use of recycled water for indirect potable reuse is critical~~  
18 ~~to achieving the state board’s goals for increased use of recycled~~  
19 ~~water in the state. If direct potable reuse can be demonstrated to~~  
20 ~~be safe and feasible, implementing direct potable reuse would~~  
21 ~~further aid in achieving the state board’s recycling goals.~~

1 ~~(d) Although there has been much scientific research on public~~  
2 ~~health issues associated with indirect potable reuse through~~  
3 ~~groundwater recharge, there are a number of significant unanswered~~  
4 ~~questions regarding indirect potable reuse through surface water~~  
5 ~~augmentation and direct potable reuse.~~

6 ~~(e)~~

7 ~~(c) Achievement of the state's goals depends on the timely~~  
8 ~~development of uniform statewide recycling criteria for indirect~~  
9 ~~and direct potable water reuse. reuse and of a clear pathway for~~  
10 ~~approval of potable reuse projects.~~

11 ~~(f)~~

12 ~~(d) This chapter is not intended to delay, invalidate, or reverse~~  
13 ~~any study or project, or development of regulations by the~~  
14 ~~department, the state board, or the regional boards regarding the~~  
15 ~~use of recycled water for indirect potable reuse for groundwater~~  
16 ~~recharge, surface water augmentation, or direct potable reuse.~~

17 ~~(g)~~

18 ~~(e) This chapter shall not be construed to delay, invalidate, or~~  
19 ~~reverse the department's state board's ongoing review of projects~~  
20 ~~consistent with Section 116551 of the Health and Safety Code.~~

21 ~~(f) The water recycling goals of 700,000 acre-feet of water per~~  
22 ~~year by the year 2000 and 1,000,000 acre-feet of water per year~~  
23 ~~by the year 2010, established in Section 13577, have not been met.~~

24 ~~(g) It is the intent of the Legislature to encourage the~~  
25 ~~development of potable reuse to mitigate the impact of long-term~~  
26 ~~drought and climate change.~~

27 ~~(h) A 2014 report by the WasteReuse Research Foundation, "The~~  
28 ~~Opportunities and Economics of Direct Potable Reuse" found that~~  
29 ~~potable reuse could provide up to 1.1 million acre-feet per year~~  
30 ~~of new drinking water supplies for California.~~

31 ~~(i) The state board adopted uniform water recycling criteria~~  
32 ~~for the replenishment of groundwater basins in June 2014 and is~~  
33 ~~developing uniform water recycling criteria for the augmentation~~  
34 ~~of surface water reservoirs pursuant to Section 13562.~~

35 ~~(j) The state board report to the Legislature titled, "Investigation~~  
36 ~~on the Feasibility of Developing Uniform Water Recycling Criteria~~  
37 ~~for Direct Potable Reuse" found that it is feasible to develop~~  
38 ~~uniform water recycling criteria for direct potable reuse that is~~  
39 ~~protective of public health.~~

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1 (k) *The state board report to the Legislature stated that the state*  
2 *board should develop a common framework across various types*  
3 *of direct potable reuse projects to help avoid discontinuities in the*  
4 *risk assessment and then sequentially develop uniform water*  
5 *recycling criteria.*

6 SEC. 3. Section 13561 of the Water Code is amended to read:  
7 13561. For purposes of this chapter, the following terms have  
8 the following meanings:

9 (a) ~~“Department” or “state board” means the State Department~~  
10 ~~of Public Health. Water Resources Control Board.~~

11 (b) ~~“Direct potable reuse” means the planned introduction of~~  
12 ~~recycled water either directly into a public water system, as defined~~  
13 ~~in Section 116275 of the Health and Safety Code, or into a raw~~  
14 ~~water supply immediately upstream of a water treatment plant.~~

15 (c) ~~“Indirect potable reuse for groundwater recharge” means~~  
16 ~~the planned use of recycled water for replenishment of a~~  
17 ~~groundwater basin or an aquifer that has been designated as a~~  
18 ~~source of water supply for a public water system, as defined in~~  
19 ~~Section 116275 of the Health and Safety Code.~~

20 (d) ~~“Surface water augmentation” means the planned placement~~  
21 ~~of recycled water into a surface water reservoir used as a source~~  
22 ~~of domestic drinking water supply.~~

23 (b) *“Potable reuse” means the planned treatment of municipal*  
24 *wastewater that has gone through multiple barrier treatment*  
25 *processes to produce or supplement a drinking water supply that*  
26 *has an equivalent level of public health protection as other sources*  
27 *of water supply permitted under the California Safe Drinking*  
28 *Water Act (Chapter 4 (commencing with Section 116270) of Part*  
29 *12 of Division 104 of the Health and Safety Code). A potable reuse*  
30 *project is any one of the following:*

31 (1) *“Potable reuse through groundwater augmentation” means*  
32 *the planned use of recycled water for replenishment of a*  
33 *groundwater basin or an aquifer that has been designated as the*  
34 *source of water supply for a public water system, as defined in*  
35 *Section 116275 of the Health and Safety Code.*

36 (2) *“Potable reuse through reservoir augmentation” means the*  
37 *planned placement of recycled water into a raw surface water*  
38 *reservoir used as a source of domestic drinking water supply for*  
39 *a public water system, as defined in Section 116275 of the Health*  
40 *and Safety Code.*

1 (3) “Potable reuse through raw water augmentation” means  
2 the planned placement of recycled water into a raw or untreated  
3 water distribution system serving a public water system, as defined  
4 in Section 116275 of the Health and Safety Code, upstream of a  
5 drinking water treatment plant.

6 (4) “Potable reuse through treated water augmentation” means  
7 the planned introduction of recycled water into the treated water  
8 distribution system of a public water system, as defined in Section  
9 116275 of the Health and Safety Code.

10 (e)

11 (c) “Uniform water recycling criteria” has the same meaning  
12 as in Section 13521.

13 SEC. 4. Section 13561.2 is added to the Water Code, to read:

14 13561.2. (a) On or before June 1, 2018, the state board shall  
15 establish a framework for the regulation of potable reuse projects.  
16 When establishing the framework, the state board shall include all  
17 of the following:

18 (1) The consideration of the recommendations in the state  
19 board’s “Investigation on the Feasibility of Developing Uniform  
20 Water Recycling Criteria for Direct Potable Reuse.”

21 (2) A schedule for completing the recommended research  
22 described in the state board’s report, “Investigation on the  
23 Feasibility of Developing Uniform Water Recycling Criteria for  
24 Direct Potable Reuse.”

25 (3) A regulatory framework for potable reuse projects that will  
26 be protective of public health.

27 (4) A process and timeline for updating, if necessary, uniform  
28 water recycling criteria for potable reuse through reservoir  
29 augmentation.

30 (5) A declaration of the state board’s authority to permit potable  
31 reuse projects pursuant to Section 116550 of the Health and Safety  
32 Code before the adoption of uniform recycling criteria pursuant  
33 to subdivision (b).

34 (b) (1) On or before December 31, 2021, the state board shall  
35 adopt uniform water recycling criteria for potable reuse through  
36 raw water augmentation. The state board shall develop the uniform  
37 water recycling criteria after soliciting stakeholder input from  
38 water agencies, wastewater agencies, local public health officers,  
39 environmental organizations, environmental justice organizations,



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1 public health nongovernmental organizations, and the business  
2 community.

3 (2) If the state board finds that the recommended research  
4 described in paragraph (2) of subdivision (a) is insufficient to adopt  
5 the uniform water recycling criteria by December 31, 2021, the  
6 state board may, by June 30, 2021, extend the uniform water  
7 recycling criteria deadline by up to 18 months.

8 (3) If the state board finds that it needs longer than the date  
9 specified in paragraph (2), the state board shall do both of the  
10 following:

11 (A) Consult with an independent expert review panel to  
12 determine why the additional 18-month extension cannot be met.

13 The review panel shall also make the following determinations:

14 (i) The outstanding tasks necessary for the state board to  
15 complete the uniform water recycling criteria.

16 (ii) A revised completion date for the state board to complete  
17 the uniform water recycling criteria.

18 (B) No later than December 31, 2021, submit to the Legislature  
19 the findings and determinations made by the independent expert  
20 review panel under subparagraph (A).

O