REPORT TO LAW & LEGISLATION COMMITEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2604

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Staff Report
May 4, 2010

Honorable Members of the
Law and Legislation Committee

Title: Water Legislation Update

Location/Council District: All

Recommendation: This report recommends that the Committee approve staff recommendations or provide direction to staff on pending water legislation.

Contact: Jessica Hess, Media and Communication Specialist, 916-808-8260
Dave Brent, Engineering Services Manager, 916-808-1420

Presenters: Dave Brent, Engineering Services Manager

Department: Utilities

Division: Administration/Engineering

Organization No: 14000160

Description/Analysis

Issue: Staff has reviewed six pending bills regarding water issues that are currently being reviewed by the California Legislature. In developing the recommendations on whether to support or oppose the pending legislation, staff considered the implications of each bill to the City and its residents, the City's water rights and its operations.

Bill Number	Title	Recommended City Position
SB 1234	Water: Unreasonable Use	Oppose
SB 1469	Sacramento-San Joaquin Delta: State Water Resources Development System	Oppose Unless Amended
AB 2092	Delta Stewardship Council: planning and administration: fee.	Oppose Unless Amended

SB 565	Water Resources	Oppose
AB 2583	Water Quality: Treatment Chemicals	Oppose Unless Amended
AB 1677	Water Resources	Support

A copy of each bill is attached.

The following is a brief summary and analysis of potential impacts of each proposed bill.

SB 1234: Water: Unreasonable Use (Kehoe)
Staff Recommendation: Oppose

This bill would require the State Water Resources Control Board to adopt regulations by January 1, 2012, to identify uses of water deemed to be "unreasonable" under 3 different scenarios: (1) a 10 % or more water supply shortage, (2) a 20 % or more water supply shortage, and (3) a 30 % or more water supply shortage. These shortage conditions are not further defined. The bill declares that the purpose of such regulations is to guide local urban water agencies with regard to what constitutes reasonable and unreasonable water usage during periods of water shortage.

Rationale for Recommendation: Staff has significant concerns with this approach. This bill takes a "one-size-fits-all approach" that would likely hold Sacramento and the region to the same standards as areas of the state with more moderate climates and less reliable, more costly water supplies. Determinations or what is or is not an "unreasonable use" of water are best made on a case-by case basis after consideration of all relevant facts and circuamstances presented, which is the approach taken in past court decisions that have addressed this issue. Also, the bill does not adequately define the water shortage conditions under which the State Water Resources Control Board's standards would apply.

SB1469: Sacramento-San Joaquin Delta: State Water Resources Development System (Simitian)

Staff Recommendation: Oppose Unless Amended

This bill as currently amended would require the State Water Resources Control Board to (1) identify all private and public parties that benefit from water originating in the Delta watershed and whose activities impact the Delta watershed, and (2) develop a process for determining the degree of responsibility attributable to each of the identified parties for physical and environmental impacts on the Delta. Staff could recommend a support position if amendments were made to appoint a task force to conduct a study and report back to the legislature for consideration.

Rationale for Recommendation: Objectively determining beneficiaries and impacts within the Delta watershed, and allocating responsibility for impacts, will be a challenging and complex task, and if not done correctly could ultimately result in new fees that are disproportionately spread to agencies such as Sacramento. A task force comprised of, at a minimum, federal and state agencies representing business, housing, agriculture and natural resources would be better suited than a single agency to complete a thorough and public study on this issue. The risk is that the more than $40 billion required to fix the Delta to assure reliable water supply for exporters will unfairly fall upon rate payers in Sacramento and completely overwhelm our control over local water rates.

AB 2092: Delta Stewardship Council: Planning and Administration: Fee (Huffman)
Staff Recommendation: Oppose Unless Amended
This bill would require the newly created Delta Stewardship Council to adopt a "short term" fee on water supply contractors of the State Water Project (SWP) and Central Valley Project (CVP), to be payable beginning July 1, 2011 through July 1, 2014. The purpose of this fee would be to fund the cost incurred from July 1, 2010 to July 1, 2013 for the following activities: (1) Cost to develop and adopt the Delta Plan, (2) Cost to develop and adopt the long-term financing plan to pay for the cost of implementing the Delta Plan, and (3) the annual administrative costs of the Council.

The bill also requires the long-term financing plan to be developed by January 1, 2013, and to identify and evaluate the benefits to all groups resulting from implementing the Delta Plan, including among others urban water users diverting water in the watershed and wastewater dischargers, and to allocate program costs based on the benefits identified. The bill includes language stating that the Council shall not adopt a fee to recover such costs unless a statute is enacted that authorizes the Council to do so.

Rationale for Recommendation: The bill is not clear whether or not CVP or SWP contractors upstream of the Delta or the City would be considered as CVP water supply contractors subject to the short term fees. The City should not be considered a CVP contractor, as the City's Bureau of Reclamation contract is a water rights settlement contract and the City does not pay for or receive Central Valley Project water. However, the intent of this language is not clear and staff feels that language needs to be added to clarify this issue.

With regard to the long-term financing plan, the bill does not specify any criteria or procedures for the Council's determination of Delta Plan beneficiaries, which will be a challenging and complex task. Without adequate substantive and procedural safeguards, City Staff is concerned that the determination of benefits of Delta restoration to upstream diverters and dischargers would not be an objective fact-based exercise, and Sacramento could be allocated more than its fair share of the burden of the costs to rehabilitate the Delta to the benefit of exporters and to the detriment of Northern California diverters and local water management efforts. Staff also is concerned that the list of groups for which the long term financing plan would have to determine benefits for does not appear to include the export interests that are in fact a primary beneficiary, nor does it

appear to include agricultural dischargers. Both of these groups have a significant stake in Delta rehabilitation and need to be added to this list.

SB 565: Water Resources (Pavley/Steinberg)
Staff Recommendation: Oppose

This bill would establish new State Water Resources Control Board fees, authorize the State Water Resources Control Board to order diverters to submit technical and monitoring reports, increase penalties for unauthorized diversions based on market value of the water, expand the scope of State Water Resources Control Board activities funded by annual water right fees, and increase the consequences of not reporting on water use in a timely fashion by making that the basis for a refutable presumption that no water was used.

Rationale for Recommendation: The City already provides the currently required reports to the State Water Resources Control Board. Staff is concerned that this bill would add unnecessary and costly reporting. Staff is further concerned that the bill gives the State Board the ability to assess penalties that arise because of honest mistakes and/or reasonable delays in reporting water use.

AB 2583: Water Quality: Treatment Chemicals (Hall)
Staff Recommendation: Oppose Unless Amended

This bill requires water agencies to use raw material chemical disinfection products derived from "safer technology" to minimize risk of release of hazardous substances while they are being transported, "if the products derived from safer technology are appropriate given the disinfection methodology used by the water agency, and are commercially available without being materially cost prohibitive to the water utilities or rate payers."

This bill would require City of Sacramento, Department of Utilities (DOU) to shift from using chlorine gas for drinking water disinfection at a substantial additional cost to ratepayers.

Rationale for Recommendation: DOU staff feels that this legislation puts an undue burden on the rate payer for a perceived risk, which in DOU's experience is minimal. Additionally, the switch from chlorine gas to an alternative disinfection product would require significant new infrastructure at the City's two water treatment facilities to receive, store and inject the chemical into the water during the treatment process. Staff recommends opposing unless amended to include funding for such infrastructure modifications.

AB 1677: Water Resources (Cabellero)
Staff Recommendation: Support

This proposed legislation extends the deadline for adoption of the 2010 urban water management plan update by 6 months, to July 1, 2011. This will allow urban water suppliers, such as the City of Sacramento to incorporate the technical methodologies being developed by the Department of Water

Resources (by October 1, 2010) in setting their urban water use targets as required by last year's "20% conservation in 2020" legislation.

Rationale for Recommendation: This extension of time will allow the City to better understand and formulate urban water use targets required by recent law.

Environmental Considerations: The City of Sacramento is required to reduce water use by 20% per capita by 2020.

Financial Considerations: There are several bills that could have potential fiscal impacts, including increased fees, regulatory compliance costs, and infrastructure upgrades. Failure to comply with recent laws, such as the reduction of water use by 20% by 2020 could result in a loss of State funding available to the City.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: _____
Jessica Hess
Media and Communication Specialist

Approved by: _____
Marty Hanneman
Director

Recommendation Approved:

_____
Gus Vina
Interim City Manager

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Attachment 1

May 4, 2010

The Honorable Christine Kehoe
California State Senate
State Capitol
Sacramento, CA 94249-0009

Subject: Oppose- SB 1234 Water (Unreasonable Use)

Dear Senator Kehoe,

I am writing to inform you that the City of Sacramento has formally taken an oppose position on SB 1234. SB 1234 takes a "one-size-fits-all approach" that would likely hold Sacramento to the same standards as areas of the state with more moderate climates and less reliable, more costly water supplies. Determinations or what is or is not an "unreasonable use" of water are best made on a case-by case basis after consideration of all relevant facts and circumstances presented, which is the approach taken in past court decisions that have addressed this issue. Also, the bill does not adequately define the water shortage conditions under which the State Water Resources Control Board's standards would apply.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Senator Darrel Steinberg
Assemblymember Dave Jones
Mayor Kevin Johnson and Members of Sacramento City Council
David Jones, Emmanuels and Jones and Associates

May 4, 2010

The Honorable Jared Huffman
California State Assembly
State Capitol
Sacramento, CA 94249-0009

Subject: Oppose Unless Amended- AB 2092 (Delta Stewardship Council: planning and administration: fee.)

Dear Assembly Member Huffman,

I am writing to inform you that the City of Sacramento has formally taken an oppose unless amended position on AB 2092.

The City of Sacramento feels that additional clarifying language is necessary to indicate whether the proposed short term fees will apply only to State Water Project and Central Valley Project export contractors, and to clarify that these fees will not apply to water right settlement contractors such as the City.

The City is also concerned that the bill does not specify any criteria or procedures for the Delta Stewardship Council's determination of Delta Plan beneficiaries, which is intended to provide the basis for allocating the long-term program costs. Without adequate substantive and procedural safeguards to assure that the determination of benefits of Delta restoration is an objective fact-based exercise, upstream purveyors could be allocated more than their fair share of the burden of the costs to rehabilitate the Delta, to the benefit of exporters and to the detriment of Northern California diverters and local water management efforts.

Finally, the City of Sacramento is concerned that the list of groups for which the long-term financing plan would have to determine benefits for does not appear to include the exporter interests that are in fact a primary beneficiary, nor does it appear to include agricultural dischargers. Both of these groups have a significant stake in Delta rehabilitation and should be added to this list.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Senator Darrel Steinberg
Assemblymember Dave Jones
Mayor Kevin Johnson and Members of Sacramento City Council
David Jones, Emmanuels and Jones and Associates

May 4, 2010

The Honorable Fran Pavely
The Honorable Darrell Steinberg
California State Senate
State Capitol
Sacramento, CA 94249-0009

Subject: Oppose- SB 565 (Water Resources)

Dear Senators Pavely and Steinberg,

I am writing to inform you that the City of Sacramento has formally taken an oppose position on SB 565. SB 565 will add unnecessary and costly reporting, and the City already completes significant reporting to the State Water Resources Control Board. The City is further concerned that the bill gives the State Board the ability to assess penalties that arise because of honest mistakes and/or reasonable delays in reporting water use.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Assemblymember Dave Jones
Mayor Kevin Johnson and Members of Sacramento City Council
David Jones, Emmanuels and Jones and Associates

May 4, 2010

The Honorable Isadore Hall, III
California State Assembly
State Capitol
Sacramento, CA 94249-0009

Subject: Oppose Unless Amended- AB 2583 (Water Treatment: Chemicals)

Dear Assembly Member Hall,

I am writing to inform you that the City of Sacramento has formally taken an oppose unless amended position on AB 2583. AB 2583 will put an undue burden on the City's rate payers for a perceived risk that is, in the City's experience, minimal. Additional burdens will be placed on the water rate payers as significant infrastructure upgrades will be necessary at the City's two treatment plants to be able to receive, store, and inject an alternative disinfection product into the water during the treatment process.

The City recommends adding language to include funding for such infrastructure modifications.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Senator Darrel Steinberg
Assemblymember Dave Jones
Mayor Kevin Johnson and Members of Sacramento City Council
David Jones, Emmanuels and Jones and Associates

May 4, 2010

The Honorable Anna M. Caballero
California State Assembly
State Capitol
Sacramento, CA 94249-0009

Subject: Support- AB 1677 (Water Resources)

Dear Assembly Member Caballero,

I am writing to inform you that the City of Sacramento has formally taken a support position on AB 1677. AB 1677 allows the City additional time to more fully understand and formulate urban water use targets required by recent law.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Senator Darrel Steinberg
Assemblymember Dave Jones
Mayor Kevin Johnson and Members of Sacramento City Council
David Jones, Emmanuels and Jones and Associates

SENATE BILL No. 1234

Introduced by Senator Kehoe

February 19, 2010

An act to add Section 188.7 to the Water Code, relating to water.

legislative counsel.s digest

SB 1234, as introduced, Kehoe. Water: unreasonable use.

Under existing law, the right to water or to the use of water is limited to that amount of water that is reasonably required for the beneficial use to be served, and does not extend to the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. Existing law requires the Department of Water Resources and the State Water Resources Control Board to take appropriate actions to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.

This bill would require the board, by January 1, 2012, to adopt regulations to identify unreasonable uses of water during various periods of water shortage, as specified, and would set forth related legislative findings and declarations.

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 Legislature finds and declares all of the
2 following:
3 (a) The California Constitution requires that all water be put to
4 a reasonable and beneficial use.

SB 1234 —2—

1 (b) What constitutes a reasonable use of water during a period 2 of ample water supply may not constitute a reasonable use of water 3 during a period of water shortage. 4 (c) It is appropriate for the State Water Resources Control Board, 5 in order to guide local urban water agencies with regard to the 6 reasonable use of water during periods of water shortage, to adopt 7 regulations to identify unreasonable uses of water during periods 8 of water shortage. 9 SEC. 2. Section 188.7 is added to the Water Code, to read:

10 188.7. (a) The board, by January 1, 2012, shall adopt 11 regulations to identify unreasonable uses of water during various 12 periods of water shortage. 13 (b) For the

purposes of subdivision (a), the board shall identify 14 unreasonable uses during a 10 percent or more water supply 15 shortage, a 20 percent or more water supply shortage, and a 30 16 percent or more water supply shortage.

O

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

california legislature—2009–10 regular session

ASSEMBLY BILL No. 2092

Introduced by Assembly Member Huffman

February 18, 2010

An act to add Sections 85215 and 85216 to the Water Code, relating to water.

legislative counsel.s digest

AB 2092, as amended, Huffman. Delta Stewardship Council: planning and administration: fee. *long-term financing plan.*

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. The council is required, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Sacramento-San Joaquin Delta (Delta Plan), meeting specified requirements.

~~This bill would require the council to adopt a fee on water supply contractors of the State Water Project and the federal Central Valley Project to fund a portion of specified costs of the council. The fee would be based on a reasonable estimate of the benefits received by the contractors of the State Water Project and the federal Central Valley Project from the activities associated with those costs. The State Board of Equalization would begin collecting the fee on July 1, 2011, and would be required to deposit the proceeds into the Delta Stewardship Council Planning Fund, which the bill would create. Moneys in the fund would be available to fund specified costs of the council, and the~~

~~costs of the State Board of Equalization incurred in collecting the fee, upon appropriation by the Legislature. The council would be required to ensure that the fee does not result in the creation of more than $____ in revenue, and the fee could be imposed only until July 1, 2014.~~

~~The~~

This bill would require the council to also develop a long term financing plan to pay for the costs of implementing the Delta Plan *and for the ongoing administration of the council by January 1, 2013. The bill would require the long term financing plan to include fee proposals to pay for private benefits associated with implementation of the Delta Plan. The bill would prohibit the council from adopting a fee for these purposes*

unless authorized by statute. The bill would require the council, before adopting and collecting fees or long term revenue sources, to seek to obtain early funding contributions from entities that may benefit from implementation of the Delta Plan and to track those contributions to provide credit against future fee or funding requirements.

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 85215 is added to the Water Code, to
2 read:
3 85215. (a) By March 31, 2011, the council shall adopt a fee
4 on water supply contractors of the State Water Project and the
5 federal Central Valley Project to fund a portion of all of the
6 following costs incurred from July 1, 2010, until July 1, 2013:
7 (1) The cost to develop and adopt the Delta Plan.
8 (2) The cost to develop and adopt the long-term financing plan
9 required by Section 85216.
10 (3) The annual administrative costs of the council, not including
11 the costs of grants or research projects.
12 (b) The fee adopted pursuant to subdivision (a) shall be based
13 on a reasonable estimate of the benefits received by the contractors
14 of the State Water Project and the federal Central Valley Project
15 from the activities associated with the costs described in paragraphs
16 (1) to (3), inclusive, of subdivision (a).
17 (c) The council shall ensure that the fee adopted pursuant to
18 subdivision (a) does not result in the creation of more than

~~dollars ($____) in revenue, and the fee shall be imposed only until July 1, 2014.~~
~~(d) The council shall develop and adopt the fee through an open and transparent process, that includes no fewer than two public hearings.~~
~~(e) The State Board of Equalization shall begin collecting the fee adopted pursuant to subdivision (a) on July 1, 2011. The proceeds shall be deposited by the State Board of Equalization into the Delta Stewardship Council Planning Fund, which is hereby created in the State Treasury. Moneys in the fund shall be available to fund the costs described in paragraphs (1) to (3), inclusive, of subdivision (a), and the costs of the State Board of Equalization incurred in collecting the fee, upon appropriation by the Legislature.~~

~~SEC. 2.~~
SECTION 1. Section 85216 *85215* is added to the Water Code,

to read: ~~85216.~~ *85215.* (a) By January 1, 2013, the council shall develop a long term financing plan to pay for the costs of implementing the Delta Plan *and for the ongoing administration of the council.* The financing plan shall identify and evaluate the benefits to all groups resulting from the implementation of the Delta Plan, including, but not limited to, *potential benefits to* all of the following:
(1) The public.
(2) Urban and agricultural water users diverting water in the Delta.
(3) Urban and agricultural water users diverting water in the Bay-Delta tributaries and watershed.
(4) Delta landowners, including, but not limited to, reclamation districts and public and private landowners, and building and transportation interests.
(5) Delta recreational users.
~~(6) Wastewater dischargers.~~

(6) Dischargers into the Delta or its tributaries, including wastewater dischargers.
(7) Commercial fishing.
(8) Other interests with infrastructure or operations in the Delta.
(b) The financing plan shall allocate program costs based on the benefits identified in subdivision (a). The plan shall include
AB 2092 ~~—4—~~

1 fee proposals to create revenues to pay for the private benefits 2 associated with implementation of the Delta Plan. The council 3 ~~shall not adopt a fee pursuant to this section unless a statute is~~ 4 ~~enacted that authorizes the council to adopt a fee pursuant to this~~ 5 ~~section.~~ 6 ~~(c) The council shall report to the Legislature regarding the plan~~ 7 ~~adopted pursuant to this section after adoption of the plan.~~ 8 *(c) Upon completion, the council shall present the plan to the* 9 *Legislature for approval. The council shall not adopt a fee pursuant*
10 *to this section unless a statute is enacted that authorizes the council* 11 *to adopt a fee pursuant to this section.* 12 *SEC. 2. Section 85216 is added to the Water Code, to read:* 13 *85216. (a) Prior to the establishment or collection of a fee or* 14 *a long term revenue source pursuant to Section 85215, the council* 15 *shall seek to obtain early funding contributions from groups that* 16 *may benefit from the implementation of the Delta Plan, for* 17 *purposes of funding the council's planning and administrative* 18 *activities.* 19 *(b) The council shall track early funding contributions and shall* 20 *provide credit for those contributions against future fee or funding* 21 *requirements.*

AMENDED IN ASSEMBLY FEBRUARY 1, 2010 AMENDED IN SENATE JUNE 2, 2009 AMENDED IN SENATE MAY 4, 2009 AMENDED IN SENATE APRIL 13, 2009

SENATE BILL No. 565

Introduced by Senator Pavley ***Senators Pavley and Steinberg***
(Principal coauthor: Assembly Member Huffman)

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. *An act to amend Sections 6103.1 and 6103.4 of the Government Code, to amend Sections 1052, 1055, 1055.2, 1055.3, 1120, 1228.5, 1228.7, 1525, 1535, 1538, 1550, 1551, 1825, 1845, 5103, and 5106 of, and to add Sections 1051.1, 1240.5, 1826, 1846, and 1847 to, the Water Code, relating to water resources.*

legislative counsel.s digest

SB 565, as amended, Pavley. Water recycling. *resources.*

(1) Existing law generally prohibits the state, or a county, city, district, or other political subdivision, or any public officer or body acting in its official capacity on behalf of any of those entities, from being required to pay any fee for the performance of an official service. Existing law exempts from this provision any fee or charge for official services required pursuant to specified provisions of law relating to water use or water quality.

This bill would expand the exemption to other provisions relating to water use, including provisions that require the payment of fees to the State Water Resources Control Board (board) for official services relating to statements of water diversion and use.

(2) Existing law authorizes the board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Existing law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. Under existing law, the board makes determinations with regard to the availability of recycled water.

This bill would authorize the board, in conducting an investigation or proceeding for these purposes, to order any person or entity that diverts water or uses water to submit any technical or monitoring report related to the diversion or use of water by that person or entity. The bill would authorize the board, in connection with the investigation or proceeding, to inspect the facilities of any person or entity to determine compliance with specified water use requirements.

(3) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the administrative imposition of civil liability by the board for a trespass in an amount not to exceed $500 for each day in which the trespass occurs. Moneys generated by the imposition of civil liability under these provisions are deposited in the Water Rights Fund.
This bill would provide that a person or entity committing a trespass may be liable in an amount not to exceed the sum of $1,000 or $5,000 for each day in which the trespass occurs, as specified, or the highest market value of the water, as specified, whichever is the greater amount. The moneys would be required to be deposited in the Water Rights Fund, as specified. The bill would establish the Water Rights Protection Subaccount in the Water Rights Fund. Specified penalties would be required to be deposited in the subaccount. The bill would state legislative intent regarding the expenditure of the moneys in the subaccount.
(4) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the board a prescribed statement of diversion and use. Existing law requires a statement to include specified information, including, on and after January 1,2012, monthly records of water diversions.

This bill would establish a rebuttable presumption, as specified, in any proceeding before the board in which it is alleged that an

—3 —SB 565

appropriative right has ceased or is subject to prescribed action, that no use required to be included in a statement of diversion and use occurred unless that use is included in a statement that is submitted to the board within a specified time period.

The bill would require a person who files a statement of diversion and use, and certain petitions involving a change in a water right, to pay an annual fee, for deposit in the Water Rights Fund. The bill would include as recoverable costs, for which the board may be reimbursed from the fund upon appropriation therefor, costs incurred in connection with carrying out requirements relating to the statements of diversion and use and the performance of duties under the public trust doctrine and provisions that require the reasonable use of water.

(5) Existing law authorizes the board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements, including requirements set forth in a decision or order relating to the unauthorized use of water. Any person who violates a cease and desist order may be liable in an amount not to exceed $1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill would increase, as specified, the civil penalties that apply to a person who violates a cease and desist order. The bill would impose civil liability, in an amount not to exceed $500 for each day in which a violation occurs, for a failure to comply with various reporting or monitoring requirements, including requirements imposed pursuant to the public trust doctrine. The bill would authorize the board to impose additional civil liability, in an amount not to exceed $500 for each day in which a violation occurs, for the violation of a permit, license, certificate, or registration, or an order or regulation involving the unreasonable use of water. The board would be required to establish a

schedule of penalties that applies to small farms for de minimus water right violations. Funds derived from the imposition of these civil penalties would be deposited in the Water Rights Fund, as specified.

The bill would establish, in a proceeding before the board in which it is alleged that an appropriative water right has ceased, or is subject to prescribed action, a rebuttable presumption that no use occurred on or after January 1, 2010, unless that diversion or use was included in a specified statement submitted to the board within 6 months after the statement is required to be filed with the board, as specified.

~~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 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 board.~~

~~This bill would require the 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 board to impose a fee on specified persons discharging wastewater into the ocean, the San Francisco Bay, or any other enclosed bay in the state, and would require that fee to be deposited into the Ocean Discharge Recycling Fund, which the bill would establish. The bill would authorize the board to expend the moneys in that fund, upon appropriation by the Legislature, for the purposes of carrying out the wastewater recycling plan.~~

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 6103.1 of the Government Code is*
2 *amended to read:*
3 6103.1. Section 6103 does not apply to any fee or charge for
4 official services required by Parts *Part 1 (commencing with Section*
5 *1000), Part* 2 (commencing with Section 1200), *Part* 3
6 (commencing with Section 2000), and *Part* 4 (commencing with
7 Section 4000), *Part 5 (commencing with Section 4999), or Part*
8 *5.1 (commencing with Section 5100),* of Division 2, *Division 7*
9 *(commencing with Section 13000), or Division 35 (commencing*
10 *with Section 85000)* of the Water Code.
11 *SEC. 2. Section 6103.4 of the Government Code is amended*

12 *to read:*
13 6103.4. Section 6103 does not apply to any fee or charge for
14 official services required by Section 100860 of the Health and
15 Safety Code, or Part 5 (commencing with Section 4999) of Division
16 2, or Division 7 (commencing with Section 13000), of the Water
17 Code.

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SEC. 3. Section 1051.1 is added to the Water Code, to read:

1051.1. (a) In conducting any investigation or proceeding specified in Section 275 or 1051, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, the board may order any person or entity that diverts or uses water to prepare and submit to the board any technical or monitoring program reports related to that person's or entity's diversion or use of water as the board may specify. The costs incurred by the person or entity in the preparation of those reports shall bear a reasonable relationship to the need for the report and the benefit to be obtained from the report. If the preparation of individual reports would result in a duplication of effort, or if the reports are necessary to evaluate the cumulative effect of several diversions or uses of water, the board may order any person or entity subject to this subdivision to pay a reasonable share of the cost of preparing reports.

(b) Any order issued under this section shall be served by personal service or registered mail on the party required to submit technical or monitoring program reports or to pay a share of the costs of preparing reports. Unless the board issues the order after a hearing, the order shall inform the party of the right to request a hearing within 30 days after the party has been served. If the party does not request a hearing within that 30-day period, the order shall take effect as issued. If the party requests a hearing within that 30-day period, the board may adopt a decision and order after conducting a hearing.

(c) Upon application of any person or entity or upon its own motion, the board may review and revise any order issued pursuant to this section, in accordance with the procedures set forth in subdivision (b).

(d) In conducting any investigation or proceeding specified in Section 275 or 1051, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, the board may inspect the facilities of any person or entity to ascertain whether the purposes of Section 100 and this division are being met and to ascertain compliance with any permit, license, certification, registration, decision, order, or regulation issued under Section 275, this division, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7. The board shall adopt regulations for procedures pursuant to Article 13 (commencing with Section 11460.10) of Chapter 4.5 of Part 1

of Division 3 of Title 2 of the Government Code, and any time extensions necessary to implement those regulations. Except in the event of an emergency affecting the public health or safety, the inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code

of Civil Procedure.

SEC. 4. Section 1052 of the Water Code is amended to read:

1052. (a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

~~(b) Civil liability may be administratively imposed by the board pursuant to Section 1055 for a trespass as defined in this section in an amount not to exceed five hundred dollars ($500) for each day in which the trespass occurs.~~

~~(c)~~

(b) The Attorney General, upon request of the board, shall institute in the superior court in and for any county wherein *in which* the diversion or use is threatened, is occurring, or has occurred appropriate *an* action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction.

~~(d)~~

(c) (1) Any person or entity committing a trespass as defined in this section may be liable for a sum *in an amount* not to exceed ~~five hundred dollars ($500) for each day in which the trespass~~ occurs. The *the greater of either of the following amounts:*

(A) One thousand dollars ($1,000) for each day in which the trespass occurs for the first enforcement proceeding or five thousand dollars ($5,000) for each day in which the trespass occurs for any subsequent enforcement proceeding.

(B) The highest market value of the water subject to the trespass as determined on a regional basis.

(2) The Attorney General, upon request of the board, shall petition the superior court to impose, assess, and recover any sums pursuant to this subdivision. In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and, *with respect to the violator, the ability to pay, the effect on the ability to continue in*

business, the corrective action, if any, taken by the violator, *and other matters as justice may require.*

(3) Civil liability may be imposed by the board pursuant to Section 1055.

~~(e)~~

(d) (1) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(2) Any funds recovered pursuant to this section that exceed the amounts that were authorized before January 1, 2011, shall be deposited in the Water Rights Protection Subaccount in the Water Rights Fund established pursuant to Section 1550.

~~(f)~~

(e) The remedies prescribed in this section are cumulative and not alternative.

(f) The increase in the amount of penalties that may be imposed pursuant to the amendments made to this section by this act during the 2009–10 Regular Session of the Legislature does not apply to violations that occurred prior to January 1, 2011.

SEC. 5. Section 1055 of the Water Code is amended to read:

1055. (a) The executive director of the board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Section 1052, Section 1536, Section 1845, *Article 4 (commencing with Section 1845) of Chapter 12 of Part 2 of Division 2,* or Section 5107. The complaint shall allege the act or failure to act that constitutes a trespass or violation, the provision of law authorizing civil liability to be imposed, and the proposed civil liability.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party served that the party may request a hearing not later than 20 days from the date the party was served. The hearing shall be before *the board or* a member of the board as it may specify *in accordance with Section 183.*

~~(c) After any hearing, the member shall report a proposed decision and order to the board and shall supply a copy to the party served with the complaint, the board's executive director, and any other person requesting a copy. The member of the board acting as hearing officer may sit as a member of the board in deciding the matter. The board, after making an independent review of the record and taking any additional evidence as may be necessary~~

~~that could not reasonably have been offered before the hearing officer, may adopt, with or without revision, the proposed decision and order.~~

(c) The board may adopt an order setting administrative civil liability, or determining that no liability will be imposed, after any necessary hearing.

(d) Orders setting administrative civil liability shall become effective and final upon issuance thereof and payment shall be made.

SEC. 6. Section 1055.2 of the Water Code is amended to read:

1055.2. No person or entity shall be subject to both civil liability imposed under Section 1055 and civil liability imposed by the superior court under subdivision (d) of Section 1052, Section 1536, or Section 1845*, or 1846* for the same act or failure to act.

SEC. 7. Section 1055.3 of the Water Code is amended to read:

1055.3. In determining the amount of civil liability, the board shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and *with respect to the violator, the ability to pay, the effect on the ability to continue in business,* the corrective action, if any, taken by the violator*, and other matters as justice may require.*

SEC. 8. Section 1120 of the Water Code is amended to read:

1120. This chapter applies to any decision or order issued under this part or Section 275, Part 2 (commencing with Section 1200), Part 2 (commencing with Section 10500) of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, *Section 85230,* or the public trust doctrine.

SEC. 9. Section 1228.5 of the Water Code is amended to read:

1228.5. (a) Registration of a small domestic or livestock stockpond use pursuant to this article shall be renewed prior to the expiration of each five-year period following completed registration.

(b) Renewal of registration shall be made upon a form prescribed by the board and shall contain such report of water use made pursuant to the registration as may be required by

the board.
(c) The conditions established by the board pursuant to Section 1228.6 which are in effect at the time of renewal of registration

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shall supersede the conditions which were applicable to the original completed registration.

(d) Failure to renew registration in substantial compliance with the reporting requirements prescribed by the board within the time period specified in subdivision (a), or to pay the renewal fee specified in subdivision (b) of Section 1228.8 *1525*, shall result by operation of law in the revocation of any right acquired pursuant to this article.

SEC. 10. Section 1228.7 of the Water Code is amended to read:

1228.7. (a) Any registrant may change the point of diversion or place of use by delivering to the board an amended registration form in accordance with Section 1228.3, including payment of the registration fee specified in subdivision (a) of Section 1228.8 *Section 1525*, except that the purpose of the use may not be changed and the change may not operate to the injury of any legal user of the water involved.
(b) Any completed amended registration of water use continues in effect the priority of right as of the date of the original completed registration.
(c) All provisions of this article regarding appropriations made pursuant thereto, including, but not limited to, provisions regarding enforcement, are applicable to the appropriation as described in the completed amended registration, except that the conditions established by the board pursuant to Section 1228.6 which are in effect at the time of completion of the amended registration shall supersede the conditions which were applicable to the original completed registration.

SEC. 11. Section 1240.5 is added to the Water Code, to read:

1240.5. (a) In any proceeding before the board in which it is alleged that a right to appropriate water has ceased or is subject to forfeiture or revocation for nonuse, there shall be a rebuttable presumption that no use occurred unless that use is included in a statement submitted pursuant to any reporting or monitoring requirement established under any permit, license, certificate, registration, decision or order, or regulation issued by the board pursuant to this division, Section 275, Article 7 (commencing with Section 13550) of Division 7, or the public trust doctrine under this part, and the statement is submitted within six months after it is required to be filed with the board. This section does not apply to any diversion or use that occurred before January 1, 2010.

(b) The rebuttable presumption established in subdivision (a)
applies only if the failure to file the statement is shown to be willful. SEC. 12. Section 1525 of the Water Code is amended to read:

1525. (a) Each person or entity who holds a permit or license to appropriate water, and each lessor of water leased under Chapter
1.5 (commencing with Section 1020) of Part 1, shall pay an annual fee according to a fee schedule established by the board.

(b) Each person or entity who files any of the following shall pay a fee according to a fee schedule established by the board:

(1) An application for a permit to appropriate water.
(2) A registration of appropriation for a small domestic use or livestock stockpond *use*.
(3) A petition for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit.
(4) A petition to change the point of diversion, place of use, or purpose of use, under a *registration for small domestic use or livestock stockpond use, or under a* permit or license.
(5) A petition to change the conditions of a permit or license, requested by the permittee or licensee, that is not otherwise subject to paragraph (3) or (4).

(6) A petition under Section 1707 or 1740 to change the point of diversion, place of use, or purpose of use of a water right that is not subject to a permit or license to appropriate water.
~~(6)~~
(7) A petition to change the point of discharge, place of use, or purpose of use, of treated wastewater, requested pursuant to Section 1211.
~~(7)~~
(8) An application for approval of a water lease agreement.
~~(8)~~
(9) A request for release from priority pursuant to Section 10504.
~~(9)~~
(10) An application for an assignment of a state-filed application pursuant to Section 10504.

(11) A statement of water diversion and use pursuant to Part 5.1 (commencing with Section 5100).
(c) The board shall set the fee schedule authorized by this section so that the total amount of fees collected pursuant to this section equals that amount necessary to recover costs incurred in

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connection with the issuance, administration, review, monitoring, and enforcement of permits, licenses, certificates, and registrations to appropriate water, water leases, *statements of diversion and use,* and orders approving changes in point of discharge, place of use, or purpose of use of treated wastewater. The board may include, as recoverable costs, but is not limited to including, the costs incurred in reviewing applications, registrations, *statements of diversion and use,* petitions and requests, prescribing terms of permits, licenses, registrations, and change orders, enforcing and evaluating compliance with permits, licenses, certificates, registrations, change orders, and water leases, inspection, monitoring, planning, modeling, reviewing documents prepared for the purpose of regulating the diversion and use of water, applying and enforcing *the public trust doctrine, Section 275,* the prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division, *the requirements under Part 5.1 (commencing with Section 5100) for filing statements of diversion and use,* and the administrative costs incurred in connection with carrying out these actions.

(d) (1) The board shall adopt the schedule of fees authorized under this section as emergency regulations in accordance with Section 1530.
(2) For filings subject to subdivision (b), the schedule may provide for a single filing fee or for an initial filing fee followed by an annual fee, as appropriate to the type of filing involved, and may include supplemental fees for filings that have already been made but have not yet been acted upon by the board at the time the schedule of fees takes effect.
(3) The board shall set the amount of total revenue collected each year through the fees authorized by this section at an amount equal to the revenue levels set forth in the annual Budget Act for this activity. The board shall review and revise the fees each fiscal year as necessary to conform with the revenue levels set forth in the annual Budget Act. If the board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the annual Budget Act, the board may further adjust the annual fees to compensate for the over or under collection of revenue.
(e) Annual fees imposed pursuant to this section for the 2003–04 fiscal year shall be assessed for the entire 2003–04 fiscal year.

(f) Fees imposed on holders of riparian water rights or rights to water appropriated prior to December 19, 1914, pursuant to this chapter shall bear a fair or reasonable relationship to the payor's burden on, or benefits from, the board's water rights program funded by those fees.

SEC. 13. Section 1535 of the Water Code is amended to read:

1535. (a) Any fee subject to this chapter that is required in connection with the filing of an application, registration, request, *statement,* or proof of claim, other than an annual fee required after the period covered by the initial filing fee, shall be paid to the board.

(b) If a fee established under subdivision (b) of Section 1525, Section 1528, or Section 13160.1 is not paid when due, the board may cancel the application, registration, petition, request, *statement,* or claim, or may refer the matter to the State Board of Equalization for collection of the unpaid fee.

SEC. 14. Section 1538 of the Water Code is amended to read:

1538. *(a)* In any proceeding pursuant to Section 1052 in which it is determined that there has been a violation of the prohibition against the unauthorized diversion or use of water subject to this division, the board or court, as the case may be, may impose an additional liability in the amount of *150 percent of* any annual fees that would have been required under this division if the diversion or use had been authorized by a permit or license to appropriate water.
(b) In any proceeding pursuant to Section 5107 in which the board imposes liability for a failure to file a statement of diversion and use or for a material misstatement in a statement of diversion and use, the board may impose an additional liability in the amount of 150 percent of any fees that have not been paid but would have been required under this division if the statement of diversion and use had been filed and did not make any material misstatement.
(c) The additional liability imposed under this section may include interest, at the rate provided under Section 685.010 of the Code of Civil Procedure, from the dates the annual fees would have been assessed.

SEC. 15. Section 1550 of the Water Code is amended to read: 1550. *(a)*

There is in the State Treasury a Water Rights Fund, which is hereby established.

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(b) There is hereby established the Water Rights Protection Subaccount in the Water Rights Fund. It is the intent of the Legislature that the moneys in the Water Rights Protection Subaccount be available for expenditure, upon appropriation by the Legislature, to reduce fees on water right holders, for water restoration projects, conservancies, and for General Fund purposes.

SEC. 16. Section 1551 of the Water Code is amended to read:

1551. All of the following shall be deposited in the Water Rights Fund:

(a) All fees, expenses, and penalties collected by the board or the State Board of Equalization under this chapter and Part 3 (commencing with Section 2000).

(b) All funds collected under Section 1052, 1845, or *Article 4 (commencing with Section 1845) of Chapter 12, and Section* 5107.

(c) All fees collected under Section 13160.1 in connection with certificates for activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

SEC. 17. Section 1825 of the Water Code is amended to read:

1825. It is the intent of the Legislature that the state should take vigorous action to enforce the terms and conditions of permits licenses, certifications, and registrations to appropriate water, to enforce state board orders and decisions, and to prevent the unlawful diversion of water, *and to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, and to enforce reporting and monitoring requirements.*

SEC. 18. Section 1826 is added to the Water Code, to read:

1826. The board shall establish a schedule of penalties that applies to small farms for de minimis water right violations under this division.

SEC. 19. Section 1845 of the Water Code is amended to read:

1845. (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

(b) (1) Any person or entity who violates a cease and desist order issued pursuant to this chapter may be liable for a sum *in an amount* not to exceed one thousand dollars ($1,000) for each day in which the violation occurs. *the greater of either of the following amounts:*

(A) One thousand dollars ($1,000) for each day in which the violation occurs for the first enforcement proceeding or five thousand dollars ($5,000) for each day in which the violation occurs for any subsequent enforcement proceeding.

(B) The highest market value of the water as determined on a regional basis.

(2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those

sums.
(3) Civil liability may be imposed administratively by the board pursuant to Section 1055.
(c) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and, *with respect to the* violator, *the ability to pay, the effect on the ability to continue in business*, the corrective action, if any, taken by the violator, *and other matters as justice may require.*
(d) *(1)* All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.
(2) Any funds recovered pursuant to this section that exceed the amounts that were authorized before January 1, 2011, shall be deposited in the Water Rights Protection Subaccount in the Water Rights Funds established pursuant to Section 1550.

(e) The increase in the amount of penalties that may be imposed pursuant to the amendments made to this section by this act during the 2009–10 Regular Session of the Legislature does not apply to violations that occurred prior to January 1, 2011.
SEC. 20. Section 1846 is added to the Water Code, to read:
1846. (a) Any person or entity subject to a monitoring or reporting requirement specified in subdivision (f) who violates that reporting or monitoring requirement, makes a material misstatement in any record or report submitted under that reporting or monitoring requirement, or tampers with or renders inaccurate any monitoring device required under that reporting

or monitoring requirement shall be liable for a sum not to exceed five hundred dollars ($500) for each day in which the violation occurs.
(b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
(c) Civil liability may be imposed administratively by the board pursuant to Section 1055.
(d) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and, with respect to the violator, the ability to pay, the effect on the ability to continue in business, the corrective action, if any, taken by the violator, and other matters as justice may require.
(e) All funds recovered pursuant to this section shall be deposited in the Water Rights Protection Subaccount in the Water Rights Fund established pursuant to Section 1550.
(f) (1) This section applies to any reporting or monitoring requirement established under any permit, license, certificate, registration, decision or order, or regulation issued by the board pursuant to this division, Section 275, Article 7 (commencing with Section 13550) of Division 7, or the public trust doctrine.
(2) This section also applies to any reporting or monitoring requirement established by

the department under Section 275, if the department requests enforcement pursuant to this section.
(3) This section does not provide a basis for imposing liability on a watermaster who is subject to reporting or monitoring requirements but does not divert or use the water subject to those requirements.

SEC. 21. Section 1847 is added to the Water Code, to read:
1847. (a) Any person or entity who violates any term or condition of a permit, license, certificate, or registration issued under this division or any order or regulation adopted by the board under Section 275 may be liable in an amount not to exceed five hundred dollars ($500) for each day in which the violation occurs.
(b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
(c) Civil liability may be imposed administratively by the board pursuant to Section 1055.
(d) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and, with respect to the violator, the ability to pay, the effect on the ability to continue in business, the corrective action, if any, taken by the violator, and other matters as justice may require.
(e) No liability shall be recoverable under this section for any violation for which liability is recovered under Section 1052 or 1846.
(f) All funds recovered pursuant to this section shall be deposited in the Water Rights Protection Subaccount in the Water Rights Fund established pursuant to Section 1550.

SEC. 22. Section 5103 of the Water Code, as amended by Section 5 of Chapter 2 of the Seventh Extraordinary Session of the Statutes of 2009, is amended to read:
5103. Each statement shall be prepared on a form provided by the board. The statement shall include all of the following information:
(a) The name and address of the person who diverted water and of the person filing the statement.
(b) The name of the stream or other source from which water was diverted, and the name of the next major stream or other body of water to which the source is tributary.
(c) The place of diversion. The location of the diversion works shall be depicted on a specific United States Geological Survey topographic map, or shall be identified using the California Coordinate System, or latitude and longitude measurements. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
(d) The capacity of the diversion works and of the storage reservoir, if any, and the months in which water was used during the preceding calendar year.
(e) (1) On and after January 1, 2012, monthly records of water diversions. The measurements of the diversion shall be made using best available technologies and best professional practices. Nothing in this paragraph shall be construed to require the implementation

of technologies or practices by a person who provides to the board documentation demonstrating that the implementation of those practices is not locally cost effective.
(2) (A) The terms of, and eligibility for, any grant or loan awarded or administered by the department, the board, or the California Bay-Delta Authority, *or its successor* on behalf of a person that is subject to paragraph (1) shall be conditioned on compliance with that paragraph.
(B) Notwithstanding subparagraph (A), the board may determine that a person is eligible for a grant or loan even though the person is not complying with paragraph (1), if both of the following apply:
(i) The board determines that the grant or loan will assist the grantee or loan recipient in complying with paragraph (1).
(ii) The person has submitted to the board a one-year schedule for complying with paragraph (1).
(C) It is the intent of the Legislature that the requirements of this subdivision shall complement and not affect the scope of authority granted to the board by provisions of law other than this article.
(f) The purpose of use.
(g) A general description of the area in which the water was used. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map and on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
(h) The year in which the diversion was commenced as near as is known.

SEC. 23. Section 5106 of the Water Code is amended to read:
5106. (a) Neither the statements submitted under this part nor the determination of facts by the board pursuant to Section 5105 shall establish or constitute evidence of a right to divert or use water.
(b) (1) The board may rely on the names and addresses included in statements submitted under this part for the purpose of determining the names and addresses of persons who are to receive notices with regard to proceedings before the board.
(2) Notwithstanding paragraph (1), any person may submit, in writing, a request to the board to provide notification to a different address, and the board shall provide the notification to that address.
(3) If the board provides notice to persons who file statements under this part, the notice shall not be determined to be inadequate on the basis that notice was not received by a person, other than a party to whom the board's action is directed, who fails to file a statement required to be filed under this part.
(4) This subdivision does not affect the requirement in Section 2527 to provide notice to all persons who own land that appears to be riparian to the stream system.
(c) In any proceeding before the board to determine whether an application for a permit to appropriate water should be approved, any statement submitted under this part or determination by the board pursuant to Section 5105 is evidence of the facts stated therein.

(d) (1) In any proceeding before the board in which it is alleged that an appropriative right has ceased or is subject to forfeiture for nonuse because water has not been put to beneficial use, there shall be a rebuttable presumption that no use required to be included in a statement submitted under this part occurred unless that use is included in a statement submitted under this part and that the statement is submitted within six months after it is required to be filed with the board.
(2) Paragraph (1) does not apply to any use that occurred before January 1, 2010.
(3) The rebuttable presumption established in paragraph (1) applies only if the failure to file the statement is shown to be willful.

SECTION 1. Part 5.5 (commencing with Section 12567) is ~~added to Division 6 of the Water Code, to read:~~

~~PART 5.5. OCEAN DISCHARGE RECYCLING PLAN~~

Chapter 1. General Provisions

12567. The Legislature finds and declares the following:
~~(a) Each year, urban water users in California discharge approximately 3,500,000 to 4,000,000 acre-feet of wastewater into the ocean. Unlike discharges into rivers and streams, which can be recaptured downstream and reused, ocean discharges are not reused. This water is truly wasted.~~
~~(b) Urban California continues to grow. The Department of Finance projects California's population to reach almost 60,000,000~~

~~people by the year 2050, an increase of over 25,000,000 people since the 2000 decennial census. These new Californians will need~~ water.
~~(c) It is critical that California find new ways to accommodate growth, with its resultant increase in water demand, in a manner that is as environmentally benign as possible.~~
~~(d) Water recycling has long been recognized as a method of helping to meet California's water needs that is cost effective and not affected by drought.~~

12567.1. For the purposes of this part, the following terms have ~~the following meanings:~~
~~(a) "Fee" means the annual fee imposed pursuant to subdivision (a) of Section 12568.~~
~~(b) "Fund" means the Ocean Discharge Recycling Fund established pursuant to subdivision (a) of Section 12568.4.~~
~~(c) "Plan" means the statewide plan adopted pursuant to Section 12567.2.~~

12567.2. (a) The board, in consultation with the department ~~and the State Department of Public Health, shall adopt a statewide plan to ensure that at least 50 percent of the wastewater annually discharged directly into the ocean, as of the year 2009, is recycled~~

~~and put to beneficial use by the year 2030.~~

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

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

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

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

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

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

~~(c) In developing the plan, the board shall do all of the following:~~

~~(1) Seek input from wastewater dischargers, urban water suppliers, local government agencies, and other interested parties.~~

~~(2) Ensure that any action authorized pursuant to this chapter is consistent with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(3) Integrate research by the board regarding unregulated pollutants, as developed pursuant to Section 10 of the Recycled Water Policy adopted by State Water Resources Control Board Resolution No. 2009-0011.~~

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

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

~~(f) Any action authorized pursuant to this chapter shall be consistent with the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000)).~~

Chapter 2. Financing

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

~~(1) (A) Except as provided in subparagraph (B), the fee shall be imposed on each person that discharges wastewater directly into the ocean, the San Francisco Bay, or any other enclosed bay in the state, as determined by the board.~~

~~(B) The fee shall not be imposed on any person that discharges less than 10,000,000 gallons of wastewater per day.~~

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

~~(3) The fee shall be in an amount that does not exceed the amount necessary to reimburse the board, the department, and the State Department of Public Health for the costs of developing the plan and any measures implementing the plan pursuant to Section 12567.2.~~

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

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

1 ~~(b) The board shall adopt regulations to implement the fee~~ 2 ~~collection procedures set forth in this section.~~ 3 12568.2. Each person that is subject to the fee shall pay an 4 ~~annual fee to the board in accordance with Section 12568.~~ 5 12568.4. (a) All fees collected pursuant to this chapter shall 6 ~~be deposited in the Ocean Discharge Recycling Fund, which is~~ 7 ~~hereby established in the State Treasury.~~ 8 ~~(b) The moneys in the fund shall be available for expenditure~~ 9 ~~by the board, upon appropriation by the Legislature, for the~~
10 purposes of carrying out this part.

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AMENDED IN ASSEMBLY APRIL 22, 2010
AMENDED IN ASSEMBLY APRIL 7, 2010
california legislature—2009–10 regular session

ASSEMBLY BILL No. 2583

Introduced by Assembly Member Hall

February 19, 2010

~~An act to add Section 13003 to the Water Code, relating to water~~ quality. *An act to add Section 25536.6 to the Health and Safety Code, relating to hazardous substances.*

legislative counsel.s digest

AB 2583, as amended, Hall. Water quality: treatment chemicals.

Water treatment: hazardous materials.

(1) Existing law provides for the California accidental release prevention (CalARP)program for the prevention of accidental releases of regulated substances, which requires the owner or operator of a stationary source to prepare a risk management plan (RMP) when required under certain federal regulations or if the administering agency determines there is a significant likelihood of a regulated substance accident risk. Existing law requires the Office of Emergency Services and local administrating agencies to implement CalARP, and certain violations of CalARP are crimes. Existing law creates the California Emergency Management Agency (Cal EMA) as the successor agency to the Office of Emergency Services.

This bill would require Cal EMA, by January 1, 2013, to adopt regulations to require a public water system or wastewater treatment plant that is a stationary source and is required to prepare and submit an RMP to additionally consider the use of safer technologies by the

public water system or wastewater treatment plant in that RMP. Because a violation of CalARP is a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law declares that activities and factors that may affect the quality of the waters of the state shall be regulated to attain the highest water quality that is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.~~

~~This bill would require water agencies, as defined, and their direct suppliers, in order to mitigate the potential catastrophic harm involved in the unintended and intentional releases of hazardous substances that are in transit, to utilize raw material chemical products derived from~~

~~safer technology, as defined, if the products derived from safer technology are appropriate, given the disinfection methodology used by the water agency, and commercially available without being materially cost prohibitive to the water utilities or rate payers. The bill would provide that this requirement applies to water agencies operating potable water treatment facilities, nonpotable water treatment facilities, or both.~~

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

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

1 *SECTION 1. Section 25536.6 is added to the Health and Safety*
2 *Code, to read:*
3 *25536.6. (a) For purposes of this section, the following*
4 *definitions shall apply:*
5 *(1) "Cal EMA" means the California Emergency Management*
6 *Agency.*
7 *(2) "Public water system" has the same meaning as defined in*
8 *Section 116275.*
9 *(3) "Safer technology" means a technology, product, raw*
10 *material, or practice, the use of which, as compared to currently*

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used technologies, products, raw materials, or practices, significantly reduces or eliminates both of the following:
(A) The possibility of release of hazardous or potentially hazardous raw materials used for purposes of water treatment.
(B) The hazards to public health and safety and the environment associated with the release or potential release of hazardous or potentially hazardous raw materials used for purposes of water treatment.
(4) "Wastewater treatment plant" has the same meaning as defined in Section 13625 of the Water Code.
(b) On or before January 1, 2013, Cal EMA, in consultation with the administering agencies, local water agencies, the public, and interested parties, shall adopt regulations to require a public water system or wastewater treatment plant that is a stationary source and that is required to prepare and submit an RMP pursuant to this article to additionally consider the use of safer technologies by the public water system or wastewater treatment plant, in accordance with all of the following:
(1) The operator of the public water system or wastewater treatment plant shall, as part of the RMP, identify those process modifications needed to mitigate the potential catastrophic harm from the unintended and intentional releases of hazardous substances

when transported for use as raw materials by the public water system or wastewater treatment plant and its direct suppliers.
(2) The RMP shall require the public water system or wastewater treatment plant to utilize raw material chemical products derived from safer technology if the products derived from safer technology are appropriate, given the disinfection methodology used by the public water system or wastewater treatment plant, are commercially available, and are chosen based on a comparison of the safety and environmental effects of the alternatives.
(3) The comparison made pursuant to paragraph (2) shall take into consideration, to the extent feasible, raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, product performance, durability, safety, the needs of the purchaser, and cost.
(c) The regulations adopted pursuant to this section shall not require the acquisition of goods or services that do not perform

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1 *adequately for their intended use, exclude adequate competition,* 2 *or are not available at a reasonable price in a reasonable period* 3 *of time.* 4 *SEC. 2. No reimbursement is required by this act pursuant to* 5 *Section 6 of Article XIII B of the California Constitution because* 6 *the only costs that may be incurred by a local agency or school* 7 *district will be incurred because this act creates a new crime or* 8 *infraction, eliminates a crime or infraction, or changes the penalty* 9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within* 11 *the meaning of Section 6 of Article XIII B of the California* 12 *Constitution.* 13 SECTION 1. Section 13003 is added to the Water Code, to 14 ~~read:~~ 15 13003. (a) Water agencies, as defined in Section 12970, and 16 ~~their direct suppliers, in order to mitigate the potential catastrophic~~ 17 ~~harm involved in the unintended and intentional releases of~~ 18 ~~hazardous substances as they are transported for use as raw~~ 19 ~~materials by the water agencies and their direct suppliers, shall~~ 20 ~~utilize raw material chemical products derived from safer~~ 21 ~~technology if the products derived from safer technology are~~ 22 ~~appropriate given the disinfection methodology used by the water~~ 23 ~~agency, and are commercially available without being materially~~ 24 ~~cost prohibitive to the water utilities or rate payers.~~ 25 ~~(b) This section applies to water agencies operating potable~~ 26 ~~water treatment facilities, nonpotable water treatment facilities, or~~ 27 ~~both.~~ 28 ~~(c) As used in this section, "safer technology" means a~~ 29 ~~technology, product, raw material, or practice, the use of which,~~ 30 ~~as compared to currently used technologies, products, raw~~ 31 ~~materials, or practices, significantly reduces or eliminates both of~~ 32 ~~the following:~~ 33 ~~(1) The possibility of release of hazardous or potentially~~ 34 ~~hazardous raw materials used for purposes of water treatment.~~ 35 ~~(2) The hazards to public health and safety and the environment~~ 36 ~~associated with the release or potential release of hazardous or~~ 37 ~~potentially hazardous raw materials used for purposes of water~~ 38 treatment.

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AMENDED IN ASSEMBLY APRIL 8, 2010 AMENDED IN ASSEMBLY APRIL 6, 2010

AMENDED IN ASSEMBLY MARCH 18, 2010

california legislature—2009–10 regular session

ASSEMBLY BILL No. 1677

Introduced by Assembly Member Caballero

January 25, 2010

An act to amend Sections 29725 and 32330 of the Public Resources Code, and to amend Sections 10608.20 and 10608.26 *Section 10608.20* of the Water Code, relating to public resources.

legislative counsel.s digest

AB 1677, as amended, Caballero. Public resources.

Existing law imposes various water use reduction requirements that apply to urban retail water suppliers and agricultural water suppliers. The requirements include a requirement that the state achieve a 20% reduction in urban per capita water use by December 31, 2020. For the purpose of meeting this goal, an urban retail water supplier is required to develop urban water use targets and an interim water use target by July 1, 2011, and to take other related actions. Existing law requires an ~~urban retail water supplier that supplies water to a United States Department of Defense military installation, for the purpose of preparing an implementation plan to comply with these water use reduction provisions, to consider the military installation's requirements under a specified federal executive order.~~

Existing law requires an urban water supplier to prepare and adopt, and update every 5 years, an urban water management plan. Existing law grants a specified extension to an urban retail water supplier for the adoption of an urban water management plan that is due in 2010, to allow use of certain technical methodologies that the Department of Water Resources is required to develop for purposes of those water use reduction provisions.

This bill would grant that extension to an urban wholesale water supplier, as specified. The bill would delete the requirement that an ~~urban retail water supplier that supplies water to that described military installation consider the military installation's requirements under the specified federal executive order.~~

Existing law establishes in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy, to act as a primary state agency to implement ecosystem restoration in the Sacramento-San Joaquin Delta (Delta) and to support efforts that advance environmental protection and the economic well-being of Delta residents. Existing law specifies the composition of the board of the conservancy, including 10 liaison advisers who serve in an

advisory, nonvoting capacity, including one representative of the United States National Marine Fisheries Service, which is within the United States Department of Commerce.

This bill would delete the Secretary of the Interior as the appointing entity and would, instead, designate the Secretary of Commerce as the appointing entity.

The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Delta. The Delta Protection Act also requires the commission to adopt, not later than July 1, 2011, an economic sustainability plan containing specified elements and requires the commission to review and, as determined to be necessary, amend the plan every 5 years. The Delta Protection Act defines the term "local government" for its purposes to include specified counties and cities.

This bill would correct a misspelling in that definition.

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

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

1 SECTION 1. Section 29725 of the Public Resources Code is
2 amended to read:

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29725. "Local government" means the Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo, and the Cities of Sacramento, Stockton, Tracy, Antioch, Pittsburg, Isleton, Lathrop, Brentwood, West Sacramento, and Oakley, and any other cities that may be incorporated in the future in the primary zone.

SEC. 2. Section 32330 of the Public Resources Code is amended to read:

32330. The board shall consist of 11 voting members and two nonvoting members, appointed or designated as follows:

(a) The 11 voting members of the board shall consist of all of the following:

(1) The Secretary of the Natural Resources Agency, or his or her designee.

(2) The Director of Finance, or his or her designee.

(3) One member of the board or a designee who is appointed by the Contra Costa County Board of Supervisors, who is a resident of that county.

(4) One member of the board or a designee who is appointed by the Sacramento County Board of Supervisors, who is a resident of that county.

(5) One member of the board or a designee who is appointed by the San Joaquin County Board of Supervisors, who is a resident of that county.

(6) One member of the board or a designee who is appointed by the Solano County Board of Supervisors, who is a resident of that county.

(7) One member of the board or a designee who is appointed by the Yolo County Board of Supervisors, who is a resident of that county.

(8) Two public members appointed by the Governor, subject to confirmation by the Senate.

(9) One public member appointed by the Senate Committee on Rules.

(10) One public member appointed by the Speaker of the Assembly.
(b) The two nonvoting members shall consist of a Member of the Senate, appointed by the Senate Committee on Rules, and a Member of the Assembly, appointed by the Speaker of the Assembly. The members appointed under this subdivision shall meet with the conservancy and participate in its activities to the
extent that this participation is not incompatible with their positions as Members of the Legislature. The appointed members shall represent a district that encompasses a portion of the Delta.
(c) Ten liaison advisers who shall serve in an advisory, nonvoting capacity shall consist of all of the following:
(1) One representative of the United States Fish and Wildlife Service, designated by the United States Secretary of the Interior.
(2) One representative of the United States National Marine Fisheries Service, designated by the United States Secretary of Commerce.
(3) One representative of the United States Bureau of Reclamation, designated by the United States Secretary of the Interior.
(4) One representative of the United States Army Corps of Engineers, designated by the Commanding Officer, United States Army Corps of Engineers, South Pacific Division.
(5) A designee of the San Francisco Bay Conservation and Development Commission for coordination purposes.
(6) A designee of the State Coastal Conservancy for coordination purposes.
(7) A designee of the Suisun Resource Conservation District for coordination purposes.
(8) A designee of the Central Valley Flood Protection Board.
(9) A designee of the Yolo Basin Foundation.
(10) A designee of the Delta Protection Commission.
(d) The public members appointed by the Governor shall serve for a term of four years, with a two-term limit.
(e) The locally appointed members and alternates shall serve at the pleasure of the appointing board of supervisors.
(f) The public members appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve for a term of four years, with a two-term limit.
(g) The Members of the Senate and Assembly shall serve at the pleasure of the appointing body.
(h) Alternates may be appointed by the county boards of supervisors. SEC. 3. Section 10608.20 of the Water Code is amended to read:

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use

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target by July 1, 2011. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal-year or calendar-year basis.
(2) It is the intent of the Legislature that the urban water use targets described in paragraph (1) cumulatively result in a 20-percent reduction from the baseline daily per capita water use by December 31, 2020.
(b) An urban retail water supplier shall adopt one of the following methods for determining its

urban water use target pursuant to subdivision (a):
(1) Eighty percent of the urban retail water supplier's baseline per capita daily water use.
(2) The per capita daily water use that is estimated using the sum of the following performance standards:
(A) For indoor residential water use, 55 gallons per capita daily water use as a provisional standard. Upon completion of the department's 2016 report to the Legislature pursuant to Section 10608.42, this standard may be adjusted by the Legislature by statute.
(B) For landscape irrigated through dedicated or residential meters or connections, water efficiency equivalent to the standards of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations, as in effect the later of the year of the landscape's installation or 1992. An urban retail water supplier using the approach specified in this subparagraph shall use satellite imagery, site visits, or other best available technology to develop an accurate estimate of landscaped areas.
(C) For commercial, industrial, and institutional uses, a 10-percent reduction in water use from the baseline commercial, industrial, and institutional water use by 2020.
(3) Ninety-five percent of the applicable state hydrologic region target, as set forth in the state's draft 20x2020 Water Conservation Plan (dated April 30, 2009). If the service area of an urban retail water supplier includes more than one hydrologic region, the supplier shall apportion its service area to each region based on population or area.
(4) A method that shall be identified and developed by the department, through a public process, and reported to the Legislature no later than December 31, 2010. The method developed by the department shall identify per capita targets that cumulatively result in a statewide 20-percent reduction in urban daily per capita water use by December 31, 2020. In developing urban daily per capita water use targets, the department shall do all of the following:
(A) Consider climatic differences within the state.
(B) Consider population density differences within the state.
(C) Provide flexibility to communities and regions in meeting the targets.
(D) Consider different levels of per capita water use according to plant water needs in different regions.
(E) Consider different levels of commercial, industrial, and institutional water use in different regions of the state.
(F) Avoid placing an undue hardship on communities that have implemented conservation measures or taken actions to keep per capita water use low.
(c) If the department adopts a regulation pursuant to paragraph
(4) of subdivision (b) that results in a requirement that an urban retail water supplier achieve a reduction in daily per capita water use that is greater than 20 percent by December 31, 2020, an urban retail water supplier that adopted the method described in paragraph
(4) of subdivision (b) may limit its urban water use target to a reduction of not more than 20 percent by December 31, 2020, by adopting the method described in paragraph (1) of subdivision (b).
(d) The department shall update the method described in paragraph (4) of subdivision (b) and report to the Legislature by December 31, 2014. An urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may adopt a new urban daily per capita water use target pursuant to this updated method.
(e) An urban retail water supplier shall include in its urban water management plan required

pursuant to Part 2.6 (commencing with Section 10610) due in 2010 the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.
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(f) When calculating per capita values for the purposes of this chapter, an urban retail water supplier shall determine population using federal, state, and local population reports and projections.
(g) An urban retail water supplier may update its 2020 urban water use target in its 2015 urban water management plan required pursuant to Part 2.6 (commencing with Section 10610).
(h) (1) The department, through a public process and in consultation with the California Urban Water Conservation Council, shall develop technical methodologies and criteria for the consistent implementation of this part, including, but not limited to, both of the following:
(A) Methodologies for calculating base daily per capita water use, baseline commercial, industrial, and institutional water use, compliance daily per capita water use, gross water use, service area population, indoor residential water use, and landscaped area water use.
(B) Criteria for adjustments pursuant to subdivisions (d) and
(e) of Section 10608.24.
(2) The department shall post the methodologies and criteria developed pursuant to this subdivision on its Internet Web site, and make written copies available, by October 1, 2010. An urban retail water supplier shall use the methods developed by the department in compliance with this part.
(i) (1) The department shall adopt regulations for implementation of the provisions relating to process water in accordance with subdivision (*l*) of Section 10608.12, subdivision
(e) of Section 10608.24, and subdivision (c) of Section 10608.26.
(2) The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.
(j) (1) An urban retail water supplier is granted an extension to July 1, 2011, for adoption of an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) due in 2010
to allow the use of technical methodologies developed by the department pursuant to paragraph (4) of subdivision (b) and subdivision (h). An urban retail water supplier that adopts an urban water management plan due in 2010 that does not use the methodologies developed by the department pursuant to subdivision (h) shall amend the plan by July 1, 2011, to comply with this part.
(2) An urban wholesale water supplier whose urban water management plan prepared pursuant to Part 2.6 (commencing with Section 10610) was due and not submitted in 2010 is granted an extension to July 1, 2011, to allow the use of technical methodologies referenced in paragraph (1).

~~SEC. 4. Section 10608.26 of the Water Code is amended to read:~~

10608.26. (a) In complying with this part, an urban retail water ~~supplier shall conduct at least one public hearing to accomplish all of the following:~~

~~(1) Allow community input regarding the urban retail water supplier's implementation plan for complying with this part.~~

~~(2) Consider the economic impacts of the urban retail water supplier's implementation plan for complying with this part.~~

~~(3) Adopt a method, pursuant to subdivision (b) of Section 10608.20, for determining its urban water use target.~~

~~(b) In complying with this part, an urban retail water supplier may meet its urban water use target through efficiency improvements in any combination among its customer sectors. An urban retail water supplier shall avoid placing a disproportionate burden on any customer sector.~~

~~(c) (1) Any ordinance or resolution adopted by an urban retail water supplier after the effective date of this section shall not require existing customers as of the effective date of this section, to undertake changes in product formulation, operations, or equipment that would reduce process water use, but may provide technical assistance and financial incentives to those customers to implement efficiency measures for process water. This section shall not limit an ordinance or resolution adopted pursuant to a declaration of drought emergency by an urban retail water supplier.~~

~~(2) This part shall not be construed or enforced so as to interfere with the requirements of Chapter 4 (commencing with Section 113980) to Chapter 13 (commencing with Section 114380),~~

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1 ~~inclusive, of Part 7 of Division 104 of the Health and Safety Code,~~ 2 ~~or any requirement or standard for the protection of public health,~~ 3 ~~public safety, or worker safety established by federal, state, or~~ 4 ~~local government or recommended by recognized standard setting~~ 5 ~~organizations or trade associations.~~