
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 273
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Version: 1/29/2021
Urgency: No
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Hearing Date: 4/12/2021
Fiscal: Yes

SUBJECT: Water quality: municipal wastewater agencies

DIGEST: This bill would allow a municipal wastewater agency to enter into agreements with entities responsible for stormwater management in order to manage and reuse stormwater and dry weather runoff.

ANALYSIS:

Existing federal law:

- 1) Under the Clean Water Act (CWA), regulates discharges of pollutants into the waters of the United States and regulates quality standards for surface waters. (33 U.S.C. §1251 et seq.)
- 2) Prohibits the discharge of pollutants into a water of the United States from a point source without a National Pollutant Discharge Elimination System (NPDES) permit.

Existing state law:

- 1) Provides the State Water Resources Control Board (State Water Board) authority over state water rights and water quality policy and establishes eight regional water quality control boards (regional boards) to oversee water quality at the local/regional level, under the California Porter-Cologne Water Quality Control Act. (Water Code §13020 et seq.)
- 2) Requires the state to, under the auspices of the United States Environmental Protection Agency (US EPA), State Water Board and nine regional boards, grant National Pollutant Discharge Elimination System (NPDES) permits, for certain point-source discharges.
- 3) Authorizes specified sanitation districts in Los Angeles County to divert, manage, treat, and discharge stormwater and dry weather runoff, as well as make beneficial use of the water. (Hernandez, Chapter 678, Statutes of 2015)

- 4) Authorizes the Irvine Ranch Water District and Santa Margarita Water District to acquire, plan, construct, maintain, improve, and operate the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial, and municipal purposes, and any related drainage or reclamation works. (Campbell, Chapter 209, Statutes of 2001)
- 5) Authorizes the Orange County Sanitation District to acquire, operate, maintain, and furnish facilities for the diversion of urban runoff from drainage courses within the district, the treatment of the urban runoff, the return of the water to the drainage courses, or the beneficial use of the water. (Hartman, Chapter 78, Statutes of 2002)

This bill:

- 1) Declares that stormwater capture, treatment, and use as a water supply is increasingly viewed as an innovative opportunity to improve water quality and that municipal wastewater agencies have the infrastructure, capacity, and expertise to help meet the state's water supply goals, but that wastewater agencies may need legislative authority for certain projects.
- 2) Declares that allowing municipal wastewater agencies to enter into voluntary agreements in the future would improve state water quality, make efficient use of public infrastructure, and promote interagency cooperation.
- 3) Clarifies that a municipal wastewater agency may enter into agreements with entities responsible for stormwater management for the purpose of managing stormwater and dry weather runoff.
- 4) Allows municipal wastewater agencies to acquire, construct, expand, operate, maintain, and provide facilities for any of the following purposes:
 - a) Diversion of stormwater and dry weather runoff from the stormwater system to the wastewater collection or treatment system.
 - b) Management and treatment of stormwater and dry weather runoff.
 - c) Discharge of treated urban runoff and stormwater to the stormwater drainage system or receiving waters.
 - d) Beneficial reuse of captured urban runoff and stormwater.
- 5) To the extent permitted by federal laws, allows a municipal wastewater agency to:
 - a) Discharge stormwater or dry weather runoff captured at industrial and commercial sites to the wastewater collection or treatment system. This

discharge would be subject to any requirements imposed by the municipal wastewater agency or public agency that owns and operates the tributary collection system.

- b) Exercise its powers under the law, including but not limited to:
 - i) Enforcing compliance with local, state, and federal water quality requirements through implementation of the municipal wastewater agency's industrial pretreatment programs.
 - ii) Ensuring that the project or program is consistent with local watershed priorities, obligations, and circumstances.
 - c) Impose taxes, fees, and charges within its authority to fund projects related to water quality.
- 6) Specifies that the use of any new authority granted under this bill must comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).
 - 7) Describes that the intent of this bill is to allow local agencies the ability to pursue wastewater management projects, should they choose, without requiring additional legislative changes to their authorizing statutes.

Background

- 1) *Stormwater regulation.* Stormwater is defined by the US EPA as the runoff generated when precipitation flows over land of impervious surfaces such as paved streets, parking lots, and building rooftops, without percolating into the ground. Water runoff from cities, highways, industrial facilities, and construction sites can carry pollutants, such as oil, pesticides, herbicides, sediment, trash, bacteria, and metals, that harm water quality and impair the beneficial uses of California waters. The State Water Board and US EPA regulate the runoff and treatment of stormwater in industrial, municipal, and residential areas of California.

The State Water Board and regional boards are responsible for regulating stormwater discharges under CWA and the NPDES permit program. The State Water Board also manages an online database to allow permittees to electronically submit permit compliance data, and allows the public to view reports and information on water quality control efforts with stormwater.

- 2) *Water Supply in California.* Traditionally, California's water supply comes from surface water (rivers and lakes) and from groundwater. But increasingly, the state has been looking to other sources for its water, including recycled treated water from wastewater plants, desalinated water, stormwater, and graywater. According to the California Department of Water Resources, diversification of California's water supply portfolio improves California's water supply reliability and our ability to withstand drought conditions.
- 3) *Recycled Water.* Municipal recycled water is wastewater that is treated and distributed back to customers for reuse. It has been safely and beneficially reused in California for more than 100 years. Since 1970, California has periodically quantified how much beneficial reuse is occurring in the state. The most recent survey of municipal water recycling, conducted jointly DWR and the State Water Board, found that California reused 714,000 acre-feet of municipal recycled water during 2015. This was an increase of 45,000 acre-feet since the previous survey in 2009. This gain was achieved during the drought when mandatory water restrictions reduced flows to wastewater treatment plants.

Comments

- 1) *Purpose of Bill.* According to the author, "The historic 2012-2016 drought provided a glimpse into the looming challenges facing California's water sector. It is clear that as climate change creates hotter and drier conditions, a diversified and flexible water portfolio is essential. Stormwater is a highly valuable and underutilized resource that, if carefully managed, can augment state and local water supply.

"Obtained through piecemeal legislation, only a handful of municipal wastewater agencies are granted the explicit authority to capture and treat stormwater under existing law. SB 273 cuts the red tape and authorizes all municipal wastewater agencies to enter into voluntary agreements with entities responsible for stormwater management. Permitting wastewater agencies to perform stormwater capture and treatment diverts polluted stormwater and urban runoff from entering our natural lands, while also providing the co-benefits of increasing the state's water supply and reducing flood risk."

- 2) *No changes to water quality.* This bill would allow municipal wastewater agencies to more easily proceed with stormwater management projects. It would not affect regulations that are currently in place to protect water quality. This bill is modeled after a series of bills, SB 485 (Hernandez, Chapter 678,

Statutes of 2015), AB 810 (Campbell, Chapter 209, Statutes of 2001), and AB 1892 (Harman, Chapter 79, Statutes of 2002), which gave explicit authority to specific special sanitation districts to divert, manage, treat, and discharge stormwater and dry weather runoff.

Related/Prior Legislation

SB 1052 (Hertzberg, 2020) would have allowed a municipal wastewater agency to enter into agreements with entities responsible for stormwater management in order to manage and reuse stormwater and dry weather runoff. This bill did not receive a hearing in the Senate Environmental Quality Committee due to time constraints related to the COVID-19 pandemic.

SB 541 (Allen, Chapter 811, Statutes of 2017) requires the State Water Board, in consultation with the regional water quality control boards, and the Division of the State Architect within the Department of General Services, to recommend best design and use practices for stormwater and dry weather runoff capture practices that can be applied to new, reconstructed, or altered public schools, including school grounds.

SOURCE: Author

SUPPORT:

Association of California Water Agencies
California Association of Sanitation Agencies
California Coastkeeper Alliance
California Municipal Utilities Association
California Special Districts Association
California Stormwater Quality Association
City of Thousand Oaks
Southern California Water Coalition

OPPOSITION:

None received