

AMENDED IN SENATE APRIL 21, 2025

AMENDED IN SENATE MARCH 26, 2025

AMENDED IN SENATE FEBRUARY 10, 2025

SENATE BILL

No. 31

Introduced by Senator McNerney
(Principal coauthor: Senator Rubio)
(Coauthor: Senator Seyarto)

December 2, 2024

An act to amend Sections 13529.2, 13551, 13552.4, 13553, and 13554 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, McNerney. Water quality: recycled water.

(1) The Water Recycling Law generally provides for the use of recycled water. Existing law requires any person who, without regard to intent or negligence, causes or permits an unauthorized discharge of 50,000 gallons or more of recycled water in or on any waters of the state to immediately notify the appropriate regional water board.

This bill would, for the purposes of the above provision, redefine “recycled water” and provide that water discharged from a decorative body of water during storm events is not to be considered an unauthorized discharge if recycled water was used to restore levels due to evaporation.

(2) Existing law regulating the use of recycled water prohibits the use of prescribed potable water by state and local agencies for any nonpotable uses, including cemeteries, golf courses, parks, and highway landscaped areas if prescribed recycled water is available, and deems

use of the recycled water in lieu of the potable water to constitute a reasonable beneficial use of that water.

~~This bill would add common areas of a residential community irrigated by a homeowners' association as prohibited uses of potable water. The bill would provide that incidental amounts of spray, mist, or runoff are to be permitted to enter outdoor eating areas of parks and open spaces when irrigated with disinfected tertiary treated recycled water that complies with a specified regulation regarding irrigation.~~

(3) Existing law authorizes any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, to require the use of recycled water for irrigation of residential landscaping, as specified.

The bill would provide that outdoor landscape irrigation of common areas operated by a homeowners association, as specified, is not to be considered a dual-plumbed system and would require recycled water used for this purpose to comply with specified provisions.

(4) Existing law authorizes any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, to require the use of recycled water for toilet and urinal flushing in structures, as specified. Existing law defines “structures” for the purposes of these provisions.

This bill would include food handling and processing facilities as part of the definition of “structures.” The bill would authorize the use of recycled water for toilet or urinal flushing or outdoor irrigation in and around food handling or processing facilities, commercial, institutional, and industrial buildings, and cafeterias, provided the recycled water does not enter the room where food handling or processing occurs, as specified.

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) California’s Water Supply Strategy, a multiagency strategy
- 4 document published in August 2022 by the Newsom
- 5 administration, sets a goal to reuse at least 800,000 acre-feet of
- 6 water per year by 2030 and 1.8 million acre-feet by the year 2040.

1 (b) Section 13521 of the Water Code requires the State Water
2 Resources Control Board to establish uniform statewide recycling
3 criteria for each varying type of use of recycled water where the
4 use involves the protection of public health.

5 (c) The regulations establishing the uniform statewide criteria
6 for recycled water uses are set forth in Chapter 3 (commencing
7 with Section 60301.050) of Division 4 of Title 22 of the California
8 Code of Regulations. Most of the regulations that pertain to
9 nonpotable recycled water uses have not been reviewed and
10 updated since the year 2000.

11 (d) Achieving increased use of recycled water to help
12 droughtproof California communities requires regulations to keep
13 pace with the best available science and technology regarding
14 recycled water use.

15 SEC. 2. Section 13529.2 of the Water Code is amended to read:

16 13529.2. (a) Any person who, without regard to intent or
17 negligence, causes or permits an unauthorized discharge of 50,000
18 gallons or more of recycled water, as defined in subdivision (c),
19 or 1,000 gallons or more of recycled water, as defined in
20 subdivision (d), in or on any waters of the state, or causes or
21 permits such unauthorized discharge to be discharged where it is,
22 or probably will be, discharged in or on any waters of the state,
23 shall, as soon as (1) that person has knowledge of the discharge,
24 (2) notification is possible, and (3) notification can be provided
25 without substantially impeding cleanup or other emergency
26 measures, immediately notify the appropriate regional board.

27 (b) For the purposes of this section, an unauthorized discharge
28 means a discharge not authorized by waste discharge requirements
29 pursuant to Article 4 (commencing with Section 13260) of Chapter
30 4, water reclamation requirements pursuant to Section 13523, a
31 master reclamation permit pursuant to Section 13523.1, or any
32 other provision of this division.

33 (c) For the purposes of this section, “recycled water” means
34 wastewater treated as “disinfected tertiary 2.2 recycled water,” as
35 defined or described by the State Department of Health Care
36 Services or wastewater receiving advanced treatment beyond
37 disinfected tertiary 2.2 recycled water once it completes the
38 required treatment process and enters a storage tank, pipeline, or
39 canal for conveyance or distribution.

(d) For purposes of this section, “recycled water” means “recycled water,” as defined in subdivision (n) of Section 13050, which is treated at a level less than “disinfected tertiary 2.2 recycled water,” as defined or described by the State Department of Health Care Services.

(e) For the purposes of this section, water discharged from a decorative body of water during storm events shall not to be considered an unauthorized discharge if recycled water was used to restore levels due to evaporation. For purposes of this subdivision, “decorative body of water” means an impoundment for aesthetic enjoyment or landscape irrigation, or which otherwise serves a similar use or function, in which recycled water is stored or used and is not intended to include public contact.

(f) The requirements in this section supplement, and shall not supplant, any other provisions of law.

SEC. 3. Section 13551 of the Water Code is amended to read:

13551. (a) A person or public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, shall not use water from any source of quality suitable for potable domestic use for nonpotable uses, including cemeteries, golf courses, parks, highway landscaped areas, ~~common areas of a residential community irrigated by a homeowners’ association~~, and industrial and irrigation uses if suitable recycled water is available as provided in Section 13550.

(b) Notwithstanding subdivision (a), any use of recycled water in lieu of water suitable for potable domestic use shall, to the extent of the recycled water so used, be deemed to constitute a reasonable beneficial use of that water and the use of recycled water shall not cause any loss or diminution of any existing water right.

(c) Incidental amounts of spray, mist, or runoff shall be permitted to enter outdoor eating areas of parks and open spaces when irrigated with disinfected tertiary treated recycled water that complies with Section 493.4 of Title 23 of the California Code of Regulations.

SEC. 4. Section 13552.4 of the Water Code is amended to read:

13552.4. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for irrigation of residential landscaping, if all of the following requirements are met:

1 (1) Recycled water, for this use, is available to the user and
2 meets the requirements set forth in Section 13550, as determined
3 by the state board after notice and a hearing.

4 (2) The use of recycled water does not cause any loss or
5 diminution of any existing water right.

6 (3) The irrigation systems are constructed in accordance with
7 Chapter 3 (commencing with Section 60301.050) of Division 4 of
8 Title 22 of the California Code of Regulations.

9 (b) This section applies to both of the following:

10 (1) New subdivisions for which the building permit is issued
11 on or after March 15, 1994, or, if a building permit is not required,
12 new structures for which construction begins on or after March
13 15, 1994, for which the State Department of Public Health has
14 approved the use of recycled water.

15 (2) Any residence that is retrofitted to permit the use of recycled
16 water for landscape irrigation and for which the State Department
17 of Public Health has approved the use of recycled water.

18 (c) (1) Division 13 (commencing with Section 21000) of the
19 Public Resources Code does not apply to any project that only
20 involves the repiping, redesign, or use of recycled water for
21 irrigation of residential landscaping necessary to comply with a
22 requirement prescribed by a public agency under subdivision (a).

23 (2) The exemption in paragraph (1) does not apply to any project
24 to develop recycled water, to construct conveyance facilities for
25 recycled water, or any other project not specified in this
26 subdivision.

27 (d) Outdoor landscape irrigation of common areas operated by
28 a homeowners' association that does not enter the boundaries of
29 a residence is not to be considered a part of the same premises as
30 an individual residence and shall not be considered a dual plumbed
31 system. Recycled water used for this purpose shall comply with
32 Section 13550.

33 SEC. 5. Section 13553 of the Water Code is amended to read:

34 13553. (a) The Legislature hereby finds and declares that the
35 use of potable domestic water for toilet and urinal flushing in
36 structures is a waste or an unreasonable use of water within the
37 meaning of Section 2 of Article X of the California Constitution
38 if recycled water, for these uses, is available to the user and meets
39 the requirements set forth in Section 13550, as determined by the
40 state board after notice and a hearing.

1 (b) The state board may require a public agency or person
2 subject to this section to furnish any information that may be
3 relevant to making the determination required in subdivision (a).

4 (c) For purposes of this section and Section 13554, “structure”
5 or “structures” means commercial, retail, and office buildings,
6 theaters, auditoriums, condominium projects, schools, hotels,
7 apartments, barracks, dormitories, jails, prisons, food handling and
8 processing facilities, reformatories, and other structures as
9 determined by the State Department of Public Health.

10 (d) Recycled water may be used in condominium projects, as
11 defined in Section 4125 or 6542 of the Civil Code, subject to all
12 of the following conditions:

13 (1) Prior to the indoor use of recycled water in any condominium
14 project, the agency delivering the recycled water to the
15 condominium project shall file a report with, and receive written
16 approval of the report from, the State Department of Public Health.
17 The report shall be consistent with the provisions of Title 22 of
18 the California Code of Regulations generally applicable to
19 dual-plumbed structures and shall include all the following:

20 (A) That potable water service to each condominium project
21 will be provided with a backflow protection device approved by
22 the State Department of Public Health to protect the agency’s
23 public water system, as defined in Section 116275 of the Health
24 and Safety Code. The backflow protection device approved by the
25 State Department of Public Health shall be inspected and tested
26 annually by a person certified in the inspection of backflow
27 prevention devices.

28 (B) That any plumbing modifications in the condominium unit
29 or any physical alteration of the structure will be done in
30 compliance with state and local plumbing codes.

31 (C) That each condominium project will be tested by the
32 recycled water agency or the responsible local agency at least once
33 every four years to ensure that there are no indications of a possible
34 cross connection between the condominium’s potable and
35 nonpotable systems.

36 (D) That recycled water lines will be color coded consistent
37 with current statutes and regulations.

38 (2) The recycled water agency or the responsible local agency
39 shall maintain records of all tests and annual inspections conducted.

1 (3) The condominium's declaration, as defined in Section 4135
2 or 6546 of the Civil Code, shall provide that the laws and
3 regulations governing recycled water apply, shall not permit any
4 exceptions to those laws and regulations, shall incorporate the
5 report described in paragraph (1), and shall contain the following
6 statement:

7
8 "NOTICE OF USE OF RECYCLED WATER
9

10 This property is approved by the State Department of Public
11 Health for the use of recycled water for toilet and urinal
12 flushing. This water is not potable, is not suitable for indoor
13 purposes other than toilet and urinal flushing purposes, and
14 requires dual plumbing. Alterations and modifications to the
15 plumbing system require a permit and are prohibited without
16 first consulting with the appropriate local building code
17 enforcement agency and your property management company
18 or owners' association to ensure that the recycled water is not
19 mixed with the drinking water."
20

21 (e) The State Department of Public Health may adopt regulations
22 as necessary to assist in the implementation of this section.

23 (f) This section shall only apply to condominium projects that
24 are created, within the meaning of Section 4030 or 6580 of the
25 Civil Code, on or after January 1, 2008.

26 (g) This section and Section 13554 do not apply to a pilot
27 program adopted pursuant to Section 13553.1.

28 SEC. 6. Section 13554 of the Water Code is amended to read:

29 13554. (a) Any public agency, including a state agency, city,
30 county, city and county, district, or any other political subdivision
31 of the state, may require the use of recycled water for toilet and
32 urinal flushing in structures, except a mental hospital or other
33 facility operated by a public agency for the treatment of persons
34 with mental disorders, if all of the following requirements are met:

35 (1) Recycled water, for these uses, is available to the user and
36 meets the requirements set forth in Section 13550, as determined
37 by the state board after notice and a hearing.

38 (2) The use of recycled water does not cause any loss or
39 diminution of any existing water right.

1 (3) The public agency has prepared an engineering report
2 pursuant to Section 60323 of Title 22 of the California Code of
3 Regulations that includes plumbing design, cross-connection
4 control, and monitoring requirements for the use site, which are
5 in compliance with criteria established pursuant to Section 13521.

6 (b) This section applies only to either of the following:

7 (1) New structures for which the building permit is issued on
8 or after March 15, 1992, or, if a building permit is not required,
9 new structures for which construction begins on or after March
10 15, 1992.

11 (2) Any construction pursuant to subdivision (a) for which the
12 State Department of Public Health has, before January 1, 1992,
13 approved the use of recycled water.

14 (c) Division 13 (commencing with Section 21000) of the Public
15 Resources Code does not apply to any project which only involves
16 the repiping, redesign, or use of recycled water by a structure
17 necessary to comply with a requirement issued by a public agency
18 under subdivision (a). This exemption does not apply to any project
19 to develop recycled water, to construct conveyance facilities for
20 recycled water, or any other project not specified in this
21 subdivision.

22 (d) (1) Recycled water for toilet or urinal flushing or outdoor
23 irrigation shall be permissible in and around food handling or
24 processing facilities, commercial, institutional, and industrial
25 buildings, and cafeterias, provided the recycled water does not
26 enter the room where food handling or processing occurs.

27 (2) Closed piping conveying recycled water may pass through
28 the room where food handling or processing occurs.

29 (3) Outdoor irrigation with recycled water at facilities that
30 handle or process food outside is prohibited while food is being
31 handled or processed outside.