

AMENDED IN ASSEMBLY JUNE 9, 2025

AMENDED IN SENATE MAY 12, 2025

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)
(Coauthors: Senators Seyarto and Valladares)**

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.

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, that does not enter the boundaries of a residence is not to be considered a part of the same premises as an individual residence and~~ is not to be considered a dual-plumbed ~~system and system. The bill would require recycled water used for this purpose to comply with specified provisions: water quality and cost conditions.~~

(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

1 administration, sets a goal to reuse at least 800,000 acre-feet of
2 water per year by 2030 and 1.8 million acre-feet by the year 2040.

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

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

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

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

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

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

35 (c) For the purposes of this section, “recycled water” means
36 wastewater treated as “disinfected tertiary 2.2 recycled water,” as
37 defined or described by the State Department of Health Care
38 Services or wastewater receiving advanced treatment beyond
39 disinfected tertiary 2.2 recycled water once it completes the

1 required treatment process and enters a storage tank, pipeline, or
2 canal for conveyance or distribution.

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

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

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

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

19 13551. (a) A person or public agency, including a state agency,
20 city, county, city and county, district, or any other political
21 subdivision of the state, shall not use water from any source of
22 quality suitable for potable domestic use for nonpotable uses,
23 including cemeteries, golf courses, parks, highway landscaped
24 areas, and industrial and irrigation uses if suitable recycled water
25 is available as provided in Section 13550.

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

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

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

37 13552.4. (a) Any public agency, including a state agency, city,
38 county, city and county, district, or any other political subdivision
39 of the state, may require the use of recycled water for irrigation of

1 residential landscaping, if all of the following requirements are
2 met:

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

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

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

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

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

17 (2) Any residence that is retrofitted to permit the use of recycled
18 water for landscape irrigation and for which the ~~State Department~~
19 ~~of Public Health~~ *state board* has approved the use of recycled
20 water.

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

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

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

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

37 13553. (a) The Legislature hereby finds and declares that the
38 use of potable domestic water for toilet and urinal flushing in
39 structures is a waste or an unreasonable use of water within the
40 meaning of Section 2 of Article X of the California Constitution

1 if recycled water, for these uses, is available to the user and meets
2 the requirements set forth in Section 13550, as determined by the
3 state board after notice and a hearing.

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

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

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

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

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

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

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

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

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

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

9

10 “NOTICE OF USE OF RECYCLED WATER

11

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

22

23 (e) ~~The State Department of Public Health~~ *state board* may
24 adopt regulations as necessary to assist in the implementation of
25 this section.

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

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

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

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

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

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

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

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

9 (1) New structures for which the building permit is issued on
10 or after March 15, 1992, or, if a building permit is not required,
11 new structures for which construction begins on or after March
12 15, 1992.

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

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

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

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

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