

AMENDED IN SENATE FEBRUARY 10, 2025

SENATE BILL

No. 31

Introduced by Senator McNerney

December 2, 2024

An act to amend ~~Section 13512~~ 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: ~~water recycling facilities; state policy.~~ 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 not prohibited from entering outdoor eating areas of parks and open spaces when irrigated with disinfected tertiary recycled water that complies with specified regulations 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.

~~Existing law states the intention of the Legislature that the state undertake all possible steps to encourage development of water recycling facilities so that recycled water may be made available to help meet the growing water requirements of the state.~~

~~This bill would make a nonsubstantive change to that statement.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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 sets a goal to reuse at
4 least 800,000 acre-feet of water per year by 2030 and 1.8 million
5 acre-feet by the year 2040.

6 (b) Section 13521 of the Water Code requires the State Water
7 Resources Control Board to establish uniform statewide recycling

1 *criteria for each varying type of use of recycled water where the*
2 *use involves the protection of public health.*

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

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

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

13 *13529.2. (a) Any person*~~who~~*, who, without regard to intent*
14 *or negligence, causes or permits an unauthorized discharge of*
15 *50,000 gallons or more of recycled water, as defined in subdivision*
16 *(c), or 1,000 gallons or more of recycled water, as defined in*
17 *subdivision (d), in or on any waters of the*~~state~~*, state, or causes*
18 *or permits such unauthorized discharge to be discharged where it*
19 *is, or probably will be, discharged in or on any waters of the state,*
20 *shall, as soon as (1) that person has knowledge of the discharge,*
21 *(2) notification is possible, and (3) notification can be provided*
22 *without substantially impeding cleanup or other emergency*
23 *measures, immediately notify the appropriate regional board.*

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

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

37 *(d) For purposes of this section, “recycled water” means*
38 *“recycled water,” as defined in subdivision (n) of Section 13050,*
39 *which is treated at a level less than “disinfected tertiary 2.2 recycled*

1 water,” as defined or described by the State Department of Health
2 Services.

3 *(e) For the purposes of this section, water discharged from a*
4 *decorative body of water during storm events shall not to be*
5 *considered an unauthorized discharge if recycled water was used*
6 *to restore levels due to evaporation.*

7 ~~(e)~~

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

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

11 13551. *(a) A person or public agency, including a state agency,*
12 *city, county, city and county, district, or any other political*
13 *subdivision of the state, shall not use water from any source of*
14 *quality suitable for potable domestic use for nonpotable uses,*
15 *including cemeteries, golf courses, parks, highway landscaped*
16 *areas, common areas of a residential community irrigated by a*
17 *homeowners’ association, and industrial and irrigation uses if*
18 *suitable recycled water is available as provided in Section 13550;*
19 ~~however, 13550.~~

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

25 *(c) Incidental amounts of spray, mist, or runoff shall not be*
26 *prohibited from entering outdoor eating areas of parks and open*
27 *spaces when irrigated with disinfected tertiary recycled water that*
28 *complies Sections 490.1 and 493.4 of Title 23 of the California*
29 *Code of Regulations.*

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

31 13552.4. *(a) Any public agency, including a state agency, city,*
32 *county, city and county, district, or any other political subdivision*
33 *of the state, may require the use of recycled water for irrigation of*
34 *residential landscaping, if all of the following requirements are*
35 *met:*

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

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

(3) The irrigation systems are constructed in accordance with Chapter 3 (commencing with Section ~~60301~~ 60301.050) of Division 4 of Title 22 of the California Code of Regulations.

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

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

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

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

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

(d) Outdoor landscape irrigation of common areas operated by a homeowners' association 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 shall not be considered a dual plumbed system. Recycled water used for this purpose shall comply with Section 13550.

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

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

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

(c) For purposes of this section and Section 13554, "structure" or "structures" means commercial, retail, and office buildings,

1 theaters, auditoriums, condominium projects, schools, hotels,
2 apartments, barracks, dormitories, jails, prisons, ~~and~~ *food handling*
3 *and processing facilities*, reformatories, and other structures as
4 determined by the State Department of Public Health.

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

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

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

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

26 (C) That each condominium project will be tested by the
27 recycled water agency or the responsible local agency at least once
28 every four years to ensure that there are no indications of a possible
29 cross connection between the condominium's potable and
30 nonpotable systems.

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

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

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

1
2 “NOTICE OF USE OF RECYCLED WATER

3
4 This property is approved by the State Department of Public
5 Health for the use of recycled water for toilet and urinal
6 flushing. This water is not potable, is not suitable for indoor
7 purposes other than toilet and urinal flushing purposes, and
8 requires dual plumbing. Alterations and modifications to the
9 plumbing system require a permit and are prohibited without
10 first consulting with the appropriate local building code
11 enforcement agency and your property management company
12 or owners’ association to ensure that the recycled water is not
13 mixed with the drinking water.”

14
15 (e) The State Department of Public Health may adopt regulations
16 as necessary to assist in the implementation of this section.

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

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

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

23 13554. (a) Any public agency, including a state agency, city,
24 county, city and county, district, or any other political subdivision
25 of the state, may require the use of recycled water for toilet and
26 urinal flushing in structures, except a mental hospital or other
27 facility operated by a public agency for the treatment of persons
28 with mental disorders, if all of the following requirements are met:

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

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

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

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

1 (1) New structures for which the building permit is issued on
2 or after March 15, 1992, or, if a building permit is not required,
3 new structures for which construction begins on or after March
4 15, 1992.

5 (2) Any construction pursuant to subdivision (a) for which the
6 State Department of Public Health has, ~~prior to~~ *before* January 1,
7 1992, approved the use of recycled water.

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

16 (d) (1) *Recycled water for toilet or urinal flushing or outdoor*
17 *irrigation shall be permissible in and around food handling or*
18 *processing facilities, commercial, institutional, and industrial*
19 *buildings, and cafeterias, provided the recycled water does not*
20 *enter the room where food handling or processing occurs.*

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

23 (3) *Outdoor irrigation with recycled water at facilities that*
24 *handle or process food outside is prohibited while food is being*
25 *handled or processed outside.*

26 ~~SECTION 1. Section 13512 of the Water Code is amended to~~
27 ~~read:~~

28 ~~13512. It is the intention of the Legislature that the state~~
29 ~~undertake all possible steps to encourage the development of water~~
30 ~~recycling facilities so that recycled water may be made available~~
31 ~~to help meet the growing water requirements of the state.~~