

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)
(~~Coauthor: Senator Seyarto~~)
(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, 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.
- 7 (b) Section 13521 of the Water Code requires the State Water
- 8 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. Most of the regulations that pertain to
7 nonpotable recycled water uses have not been reviewed and
8 updated since the year 2000.

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

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

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

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

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

38 (d) For purposes of this section, “recycled water” means
39 “recycled water,” as defined in subdivision (n) of Section 13050,
40 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 Care 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. For purposes of this
7 subdivision, “decorative body of water” means an impoundment
8 for aesthetic enjoyment or landscape irrigation, or which otherwise
9 serves a similar use or function, in which recycled water is stored
10 or used and is not intended to include public contact.

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

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

14 13551. (a) A person or public agency, including a state agency,
15 city, county, city and county, district, or any other political
16 subdivision of the state, shall not use water from any source of
17 quality suitable for potable domestic use for nonpotable uses,
18 including cemeteries, golf courses, parks, highway landscaped
19 areas, and industrial and irrigation uses if suitable recycled water
20 is available as provided in Section 13550.

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

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

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

32 13552.4. (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 irrigation of
35 residential landscaping, if all of the following requirements are
36 met:

37 (1) Recycled water, for this use, is available to the user and
38 meets the requirements set forth in Section 13550, as determined
39 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 irrigation systems are constructed in accordance with
4 Chapter 3 (commencing with Section 60301.050) of Division 4 of
5 Title 22 of the California Code of Regulations.

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

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

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

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

20 (2) The exemption in paragraph (1) 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) Outdoor landscape irrigation of common areas operated by
25 a homeowners' association that does not enter the boundaries of
26 a residence is not to be considered a part of the same premises as
27 an individual residence and shall not be considered a dual plumbed
28 system. Recycled water used for this purpose shall comply with
29 Section 13550.

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

31 13553. (a) The Legislature hereby finds and declares that the
32 use of potable domestic water for toilet and urinal flushing in
33 structures is a waste or an unreasonable use of water within the
34 meaning of Section 2 of Article X of the California Constitution
35 if recycled water, for these uses, is available to the user and meets
36 the requirements set forth in Section 13550, as determined by the
37 state board after notice and a hearing.

38 (b) The state board may require a public agency or person
39 subject to this section to furnish any information that may be
40 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, theaters, auditoriums, condominium projects, schools, hotels, apartments, barracks, dormitories, jails, prisons, food handling and processing facilities, reformatories, and other structures as determined by the State Department of Public Health.

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

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

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

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

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

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

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

(3) The condominium’s declaration, as defined in Section 4135 or 6546 of the Civil Code, shall provide that the laws and regulations governing recycled water apply, shall not permit any exceptions to those laws and regulations, shall incorporate the

1 report described in paragraph (1), and shall contain the following
2 statement:

3
4 “NOTICE OF USE OF RECYCLED WATER

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

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

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

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

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

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

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

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

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

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

2 (1) New structures for which the building permit is issued on
3 or after March 15, 1992, or, if a building permit is not required,
4 new structures for which construction begins on or after March
5 15, 1992.

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

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

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

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

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