

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 836**

---

---

**Introduced by Assembly Member Gabriel**

February 17, 2021

---

---

An act to amend Section 6236 of the Public Resources Code, relating to public lands; add Sections 18940.7 and 18940.8 to the Health and Safety Code, and to amend Sections 13558 and 13558.1 of the Water Code, relating to building standards.

LEGISLATIVE COUNSEL'S DIGEST

AB 836, as amended, Gabriel. ~~Public lands: Sea Grant research projects.~~ California Building Standards Commission: recycled water: nonpotable water systems.

(1) *The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval and adoption. Existing law requires the commission to conduct research to assist in the development of mandatory green building standards for the installation of recycled water systems for newly constructed commercial and public buildings, in consultation with the State Water Resources Control Board and other interested parties.*

*This bill would require, on or before January 1, 2023, the commission to adopt mandatory building standards requiring that a newly constructed nonresidential building be constructed with dual plumbing to allow the use of recycled water for all applicable nonpotable water*

*demands, as defined, if that building is located within an existing or planned recycled water service area, as specified.*

*This bill would require, on or before January 1, 2023, the commission to adopt mandatory building standards requiring that a newly constructed nonresidential building with a total gross floor area of 100,000 square feet or more be constructed with dual plumbing to allow the use of nonpotable water sources for all applicable nonpotable water demands and provide for the collection, onsite treatment, and reuse of available onsite rainwater, graywater, and foundation drainage. The bill would establish exemptions to these requirements, including waiver by the board on a project-by-project basis if the board finds that strict compliance would have a significant adverse impact on public health, downstream water rights, water quality, operation of a sewer collection or treatment system, or plant life, fish, or wildlife.*

*(2) Existing law requires the State Water Resources Control Board to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health. Existing law requires the board, in consultation with the California Building Standards Commission and the Department of Housing and Community Development, to adopt regulations for risk-based water quality standards for the onsite treatment and reuse of nonpotable water, as provided. Existing law requires a local jurisdiction that elects to establish a program for onsite treated nonpotable water systems to, among other things, adopt, through ordinance, a local program that includes the risk-based water quality standards established by the board. Existing law prohibits the board from administering a local jurisdiction's program in place of a local jurisdiction that is unable to effectively implement its program while protecting public health or that decides to terminate its program.*

*This bill would delete that prohibition. The bill would require the board, on or before January 1, 2024, to establish a program for large onsite treated nonpotable water systems, as defined, for local jurisdictions that do not have a local program for onsite treated nonpotable water systems. The bill would authorize the board to establish a reasonable schedule of fees for reimbursement of its costs of establishing and operating the program.*

~~Existing law requires an amount specified in the annual Budget Act to be available for distribution for public and private higher education for projects under the National Sea Grant College and Program Act, as provided. Existing law requires Sea Grant research projects selected~~

~~for the state support to have a clearly defined benefit to the people of the State of California.~~

~~This bill would make a nonsubstantive change to the above law relating to the selection of the Sea Grant research projects.~~

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) The California Constitution requires that the water resources*  
4 *of the state be put to beneficial use to the fullest extent of which*  
5 *they are capable and that the waste, unreasonable use, or*  
6 *unreasonable method of use of water be prevented.*  
7     *(b) Severe drought conditions have increased in frequency over*  
8 *the last decade resulting in California's water supplies falling to*  
9 *alarmingly low levels during multiple years.*  
10    *(c) Based on the projected impact of climate change on*  
11 *California's snowpack, extremely dry conditions and drought*  
12 *similar to those experienced in 2012 to 2016, inclusive, will likely*  
13 *become more common and occur more regularly in the future.*  
14 *Higher temperatures mean less snowpack, which is the state's*  
15 *largest water reservoir. Scientists project a loss of at least 25*  
16 *percent of the snowpack in the Sierra Nevada Mountains by 2050.*  
17 *The Colorado River Basin, which provides drinking water to*  
18 *southern California, has experienced prolonged drought.*  
19    *(d) Water reuse is one of the most efficient and cost-effective*  
20 *ways to improve drought resilience in California communities.*  
21 *Currently, most buildings use potable water to supply the*  
22 *nonpotable water demands from toilet and urinal flushing, floor*  
23 *trap priming, cooling towers, and air-conditioning devices. Dual*  
24 *plumbing of buildings allows those nonpotable water demands to*  
25 *be met by nonpotable water sources such as recycled water or*  
26 *onsite-treated graywater, rainwater and foundation drainage.*  
27    *(e) The State Water Resources Control Board has established*  
28 *goals of recycling 1,500,000 acre-feet of wastewater by 2020 and*  
29 *2,500,000 acre-feet of wastewater by 2030, however, California*  
30 *is not on track to meet those goals and very little recycled water*

1 *has been made available to replace nonpotable water use in*  
2 *buildings.*

3 *(f) Onsite treatment and reuse of available onsite rainwater,*  
4 *graywater, and foundation drainage in buildings provides a proven*  
5 *avenue for reducing the use of potable water in nonpotable water*  
6 *building applications when recycled water is not available for*  
7 *those applications.*

8 *SEC. 2. Section 18940.7 is added to the Health and Safety*  
9 *Code, to read:*

10 *18940.7. (a) On or before January 1, 2023, the commission*  
11 *shall adopt mandatory building standards requiring that a newly*  
12 *constructed nonresidential building shall be constructed with dual*  
13 *plumbing to allow the use of recycled water for all applicable*  
14 *nonpotable water demands if that building is located within either*  
15 *of the following:*

16 *(1) A recycled water service area that provides recycled water*  
17 *for nonpotable water use in nonresidential buildings.*

18 *(2) A planned service area for the provision of recycled water*  
19 *for nonpotable water use in nonresidential buildings for which a*  
20 *specific implementation timeline of 10 or fewer years has been*  
21 *identified by the recycled water provider.*

22 *(b) For purposes of this section, “all applicable nonpotable*  
23 *water demands” includes toilet and urinal flushing, floor trap*  
24 *priming, cooling towers, and air-conditioning devices.*

25 *SEC. 3. Section 18940.8 is added to the Health and Safety*  
26 *Code, to read:*

27 *18940.8. (a) On or before January 1, 2023, the commission*  
28 *shall adopt mandatory building standards requiring that a newly*  
29 *constructed nonresidential building with a total gross floor area*  
30 *of 100,000 square feet or more to comply with both of the*  
31 *following:*

32 *(1) Be constructed with dual plumbing to allow the use of*  
33 *nonpotable water sources for all applicable nonpotable water*  
34 *demands.*

35 *(2) Provide for the collection, onsite treatment and reuse of*  
36 *available onsite rainwater, graywater, and foundation drainage.*

37 *(b) A mandatory standard adopted pursuant to subdivision (a)*  
38 *may be waived, modified, or amended by order of the State Water*  
39 *Resources Control Board on a project-by-project basis if the board*  
40 *finds that strict compliance would have a significant adverse*

1 *impact on public health, downstream water rights, water quality,*  
2 *operation of a sewer collection or treatment system, or plant life,*  
3 *fish or wildlife.*

4 *(c) The requirements adopted pursuant to subdivision (a) shall*  
5 *not apply to the following buildings:*

6 *(1) A building with an intended purpose that would produce*  
7 *less than 1,500 gallons of graywater per day.*

8 *(2) A building that is located within a local jurisdiction that*  
9 *does not have a program for onsite treated nonpotable water*  
10 *systems that meets the requirements of Section 13558 of the Water*  
11 *Code and the State Water Resources Control Board has not*  
12 *established an applicable program for onsite treated nonpotable*  
13 *water systems pursuant to Section 13558 of the Water Code.*

14 *(3) A building constructed with dual plumbing to allow the use*  
15 *of recycled water for all applicable nonpotable water demands if*  
16 *the building is located within a recycled water service area that*  
17 *provides recycled water for nonpotable water use in buildings or*  
18 *within a planned service area for the provision of recycled water*  
19 *for nonpotable water use in buildings for which a specific*  
20 *implementation timeline has been identified by the recycled water*  
21 *provider.*

22 *(d) For the purposes of this section, all applicable nonpotable*  
23 *water demands shall include toilet and urinal flushing, floor trap*  
24 *priming, cooling towers, and air-conditioning devices.*

25 *SEC. 4. Section 13558 of the Water Code is amended to read:*

26 *13558. (a) On or before December 1, 2022, the state board, in*  
27 *consultation with the California Building Standards Commission*  
28 *and the Department of Housing and Community Development,*  
29 *shall adopt regulations for risk-based water quality standards for*  
30 *the onsite treatment and reuse of nonpotable water for nonpotable*  
31 *end uses in multifamily residential, commercial, and mixed-use*  
32 *buildings. The state board shall address in those regulations, at a*  
33 *minimum, all of the following:*

34 *(1) Risk-based log reduction targets for the removal of pathogens*  
35 *such as enteric viruses, parasitic protozoa, and enteric bacteria for*  
36 *nonpotable water sources, graywater, rainwater, stormwater, and*  
37 *blackwater, and nonpotable end uses, toilet and urinal flushing,*  
38 *clothes washing, irrigation, and dust suppression.*

39 *(2) Water quality monitoring requirements.*

1 (3) Reporting requirements for the water quality monitoring  
2 results.

3 (4) Notification and public information requirements.

4 (5) Cross-connection controls.

5 (b) A local jurisdiction that elects to establish a program for  
6 onsite treated nonpotable water systems shall do all of the  
7 following:

8 (1) (A) Adopt a local program through a local ordinance that  
9 includes the risk-based water quality standards established by the  
10 state board.

11 (B) (i) A local jurisdiction that does not provide water service  
12 or sewer service shall consult with a water service provider or  
13 sewer service provider, respectively, that provides water service  
14 or sewer service within the boundaries of the jurisdiction before  
15 adopting, amending, or repealing an ordinance that institutes a  
16 program for onsite treated nonpotable water system installation  
17 and regulation. In consulting with a water service provider or sewer  
18 service provider, a local jurisdiction shall give the water service  
19 provider or sewer service provider the opportunity to demonstrate  
20 that the proposed ordinance could result in a significant adverse  
21 impact to any of the following:

22 (I) Operations, maintenance, or management of the existing  
23 sewer collection or treatment system due to reduced flows.

24 (II) Existing or planned centralized recycled water or potable  
25 reuse facilities or projects due to reduced flows.

26 (III) Receiving waters.

27 (ii) If a water service provider or sewer service provider  
28 demonstrates to a local jurisdiction a significant risk of a significant  
29 adverse impact listed in clause (i), the local jurisdiction shall avoid  
30 the impacts or mitigate the impacts to a point where no significant  
31 impact on the system, facilities, projects, or receiving waters would  
32 occur before adopting the proposed ordinance.

33 (2) Establish onsite treated nonpotable water system design  
34 criteria, permitting, cross-connection control, and enforcement  
35 procedures.

36 (3) Provide an annual report to the state board that includes the  
37 number, location, and description of permits issued for new and  
38 replacement onsite treated nonpotable water systems, the types  
39 and quantity of nonpotable water for nonpotable end uses, water

1 quality monitoring data, and a summary of any violations and  
2 corrective actions taken in the local jurisdiction’s program.

3 (4) Terminate the operation of, and modify to render inoperable,  
4 any onsite treated nonpotable water system at the direction of the  
5 state board.

6 (5) (A) Implement its program for the protection of public  
7 health.

8 (B) (i) If a local jurisdiction determines that it can no longer  
9 effectively implement its program while protecting public health,  
10 or if it decides to terminate its program, the local jurisdiction shall  
11 rescind its issued permits and require all installed systems to be  
12 rendered inoperable prior to the cessation of its ~~program~~ program,  
13 *unless the state board has established a program to take the place*  
14 *of the local jurisdiction’s program for that system.*

15 (ii) Before a local jurisdiction terminates its program pursuant  
16 to this subparagraph, it shall publicly state the financial or logistical  
17 hardship that justifies termination of the program and provide the  
18 public with an opportunity for comment.

19 ~~(C) The state board shall not administer a local jurisdiction’s~~  
20 ~~program in place of a local jurisdiction that is unable to effectively~~  
21 ~~implement its program while protecting public health or that~~  
22 ~~decides to terminate its program.~~

23 (c) *On or before January 1, 2024, the state board shall establish*  
24 *a program for large onsite treated nonpotable water systems for*  
25 *local jurisdictions that do not have a local program. The state*  
26 *board may establish a reasonable schedule of fees by which it is*  
27 *reimbursed for the costs it incurs pursuant to the establishment*  
28 *and operation of the program.*

29 ~~(e)~~

30 (d) The standards established pursuant to subdivision (a) shall  
31 not address untreated graywater systems that are used exclusively  
32 for subsurface irrigation that are regulated by Chapter 15  
33 (commencing with Section 1501.0) of the California Plumbing  
34 Code (Part 5 of Title 24 of the California Code of Regulations).

35 ~~(d)~~

36 (e) The standards established pursuant to subdivision (a) shall  
37 not address untreated rainwater systems that are used exclusively  
38 for surface, subsurface, or drip irrigation that are regulated by  
39 Chapter 16 (commencing with Section 1601.0) of the California

1 Plumbing Code (Part 5 of Title 24 of the California Code of  
 2 Regulations).

3 ~~(e)~~

4 (f) (1) Notwithstanding any other law, the standards established  
 5 pursuant to subdivision (a) shall not be considered building  
 6 standards and shall be treated as program regulations promulgated  
 7 pursuant to Chapter 3.5 (commencing with Section 11340) of Part  
 8 1 of Division 3 of Title 2 of the Government Code.

9 (2) On or before December 1, 2023, the Department of Housing  
 10 and Community Development, in consultation with the state board,  
 11 shall develop and propose for adoption any necessary  
 12 corresponding building standards to support the risk-based water  
 13 quality standards established by the state board pursuant to  
 14 subdivision (a).

15 ~~(f)~~

16 (g) The standards established pursuant to subdivision (a) shall  
 17 be effective commencing on the date on which the regulations are  
 18 approved and final. An onsite treated nonpotable water system in  
 19 operation before the effective date of the regulations shall comply  
 20 with the regulations within two years of the effective date. If the  
 21 permitting local jurisdiction finds that the permittee is working to  
 22 come into compliance with the regulations, but due to extenuating  
 23 circumstances related to the engineering, repair, or replacement  
 24 of the system a further extension is warranted, the local jurisdiction  
 25 may grant an extension to comply with the regulations not to  
 26 exceed five years after the effective date.

27 ~~(g)~~

28 (h) The state board may contract with public or private entities  
 29 to advise the state board on public health issues and scientific and  
 30 technical matters regarding the content of the standards established  
 31 pursuant to subdivision (a).

32 ~~(h)~~

33 (i) For purposes of this section, ~~“local~~ *the following definitions*  
 34 *apply:*

35 (1) *“Large onsite treated nonpotable water system” means a*  
 36 *system serving a building or buildings with a total gross floor area*  
 37 *of 50,000 square feet or more.*

38 (2) *“Local jurisdiction” means a city, county, or city and county.*

39 *SEC. 5. Section 13558.1 of the Water Code is amended to read:*

1 13558.1. (a) An onsite treated nonpotable water system shall  
2 not be installed except under a program established in compliance  
3 with subdivision (b) *or* (c) of Section 13558.

4 (b) This section does not apply to untreated graywater systems  
5 that are used exclusively for subsurface irrigation that are regulated  
6 by Chapter 15 (commencing with Section 1501.0) of the California  
7 Plumbing Code (Part 5 of Title 24 of the California Code of  
8 Regulations).

9 (c) This section does not apply to untreated rainwater systems  
10 that are used exclusively for surface, subsurface, or drip irrigation  
11 that are regulated by Chapter 16 (commencing with Section 1601.0)  
12 of the California Plumbing Code (Part 5 of Title 24 of the  
13 California Code of Regulations).

14 ~~SECTION 1. Section 6236 of the Public Resources Code is~~  
15 ~~amended to read:~~

16 ~~6236. The Sea Grant research projects selected for the state~~  
17 ~~support pursuant to this chapter shall have a clearly defined benefit~~  
18 ~~to the people of the State of California. Those projects, to be~~  
19 ~~conducted by universities, colleges, or other institutions~~  
20 ~~participating in the California Sea Grant College Program, shall~~  
21 ~~be applicable to marine and coastal resources management, policy,~~  
22 ~~science, and engineering issues that face this state now or in the~~  
23 ~~reasonably foreseeable future.~~