

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 3121 (Hart) – As Introduced February 16, 2024

SUBJECT: Urban retail water suppliers: written notice: conservation order: dates

SUMMARY: Delays by one year the dates on which the State Water Resources Control Board (State Water Board) may begin issuing orders to enforce the “Making Conservation A Way of Life” statute. Specifically, **this bill:**

- 1) Delays the date on which the State Water Board may issue a written warning to an urban retail water agency that is not meeting its urban water use objective from January 1, 2025 to January 1, 2026.
- 2) Delays the date on which the State Water Board may issue a conservation order to an urban retail water agency that is not meeting its urban water use objective from January 1, 2026 to January 1, 2027.

EXISTING LAW:

- 1) Requires the State Water Board, in coordination with DWR, to adopt long-term standards for outdoor residential use, outdoor irrigation with dedicated irrigation meters in conjunction with commercial, industrial, and institutional (CII) water use, and a volume for water loss by June 30, 2022 (Water Code § 10609.2).
- 2) Requires each “urban retail water supplier” to calculate its urban water use objective no later than January 1, 2024 and by January 1 every year thereafter. The urban water use objective shall be the sum of the following: (a) aggregate estimated efficient indoor residential water use; (b) aggregate estimated efficient outdoor residential water use; (c) aggregate estimated efficient outdoor CII water use; (d) aggregate estimated efficient water loses; (e) aggregate estimated water use with variances, as appropriate; and (f) bonus incentives for potable reuse (Water Code §10609.20).
- 3) Authorizes the State Water Board to issue informational orders beginning January 1, 2024, written warnings beginning January 1, 2025, or conservation orders beginning January 1, 2026 to urban retail water suppliers that do not meet their urban water use objective to help said urban retail water supplier meet its urban water use objective (Water Code § 10609.26).
- 4) Defines “urban retail water supplier” as either a public or private water supplier that provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet annually at retail for municipal purposes (Water Code § 10608.12).

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill extends dates on which the State Water Board may begin taking steps to enforce the urban water use objective. The author argues “[this bill] will provide a reasonable timeframe to facilitate smoother transitions for water providers and

promote better compliance and understanding of new regulations. Extending the timeline balances the urgency of water conservation with the practicalities of implementation, ensuring a more measured and successful approach to addressing water scarcity challenges in urban areas.”

- 2) **Background.** Following the 2012-16 drought, California’s worst on record, then-Governor Brown issued the “Making Conservation California Way of Life” Executive Order [(EO) B-37-16] on May 9, 2016. This EO directed DWR to work with the State Water Board “to develop new water use targets as part of a permanent framework for urban water agencies” and to issue a framework for doing so. DWR and the State Water Board released the framework in 2017 (2017 Framework) that outlined a suite of actions that could be implemented under existing authorities and recommended additional actions that could be implemented with new or expanded authorities given by the Legislature.

“Making Conservation a Way of Life” package. Various bills to implement aspects of the 2017 Framework were introduced in the Legislature in 2017. This led to a roughly year-long process that involved the Brown Administration, the Legislature, and numerous stakeholders to negotiate a two-bill package, SB 606 (Hertzberg) and AB 1668 (Friedman), that established a new foundation for long-term improvements in water conservation and drought planning to adapt to climate change. These two bills provided expanded and new authorities and requirements to enable permanent changes and actions to drive more efficient use of water and better prepare the state for future droughts.

Urban water use objective. The upshot of SB 606 and AB 1668 is that urban retail water agencies have to reduce their water use by meeting an “urban water use objective” that they must calculate and report to the State Water Board annually beginning January 2024. The urban water use objective is the sum of: (1) indoor residential water use; (2) outdoor residential water use; (3) outdoor CII use; (4) water losses; (5) variances, if applicable; and (6) bonus incentives for recycled water, if applicable. The objective and the standards that go into setting it apply on an annual aggregate basis and will not apply to individual customers or even on a monthly basis. A given agency may exceed one or more of the standards (e.g., outdoor residential use) so long as in the aggregate, that agency is meeting its overall objective.

To enforce the urban water use objective, the State Water Board can begin issuing informational orders as of January 2024. Subsequently, the State Water Board can issue written warning notices beginning January 2025 and conservation orders beginning January 2026 to any urban water agency that is not meeting its urban water use objective. A written warning can request that that a water agency address “areas of concern” in its next annual report and a conservation order may include a referral to DWR for technical assistance, requirements for education and outreach, requirements for local enforcement, or other efforts to assist the water agency in meeting its urban water use objective. This bill delays the dates on which the State Water Board can begin issuing the written warning and conservation orders by one year each to accommodate the delay in developing the standards.

Draft regulations. The State Water Board issued draft regulations to implement the “Conservation as a Way of Life” legislation in Fall 2023. The draft regulations were widely criticized by urban water agencies and in a report by the Legislative Analysts Office. Subsequently, the State Water Board released an updated draft on March 12, 2024. The

updated draft made several changes in response to comments and criticism received on the first draft. The draft regulations require urban retail water agencies to begin reporting on their urban water use objective beginning January 1, 2025. The regulations are expected to be finalized this summer.

- 3) **Related legislation.** SB 1157 (Hertzberg), Chapter 679, Statutes of 2022, lowers the statewide indoor residential water use standard from 55 gallons per capita daily (gpcd) to 47 gpcd beginning January 1, 2025, and from 50 gpcd to 42 gpcd beginning January 1, 2030 and requires DWR, in coordination with the State Water Board, to conduct studies and investigations to assess specified impacts of this standard.

AB 2157 (Blanca Rubio) of 2022 would have made technical changes to indoor residential use standard statute. AB 2157 died in the Assembly Rules Committee.

AB 1434 (Friedman) of 2022 would have established an indoor residential water use standard of 47 gpcd beginning January 1, 2025 and 42 gpcd beginning January 1, 2030. AB 1434 died in the Assembly Appropriations Committee.

AB 1668 (Friedman), Chapter 15, Statutes of 2018, establishes an indoor residential water use standard of 55 gpcd until January 1, 2025, of 52.5 gpcd until January 2, 2030, and of 50 gpcd thereafter and requires DWR to submit a report to the Legislature that may recommend a different indoor residential use standard by January 1, 2021, among other provisions.

SB 606 (Hertzberg), Chapter 14, Statutes of 2018, establishes urban water use objectives and water use reporting requirements so urban water supplier and the State Water Board can track whether or not an urban water supplier is meeting its urban water use objective, among other provisions.

SBx7 7 (Steinberg), Chapter 4, Statutes of 2009-10 Seventh Extraordinary Session, requires a 20% reduction in urban per capita water use by December 30, 2020, among other provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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