

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

AB 1573 (Friedman) – As Amended March 23, 2023

SUBJECT: Water conservation: landscape design: model ordinance

SUMMARY: Makes changes to required provisions in the Model Water Efficient Landscape Ordinance (MWELo) developed by the Department of Water Resources (DWR), including requiring the use of more native or water efficient plants and a prohibition on the use of nonfunctional turf in new or renovated commercial and industrial areas. Specifically, **this bill:**

- 1) Deletes the requirement that MWELo shall not prohibit or require specific plant species.
- 2) Requires MWELo to include provisions requiring that plants included in a landscape design plan be selected based on their adaptability to climatic, geological, and topographical conditions of the project site including:
 - a) A scientific climate zone that considers temperatures, humidity, and other factors affecting local climate;
 - b) The horticultural attributes of plants;
 - c) Local and native plants found naturally in the region where the project is located, as defined and updated by the University of California, Berkeley Jepson eFlora.
- 3) Requires MWELo to require that all plants installed in new or renovated nonresidential areas have an average Water Use Classification of Landscape Species (WUCOLS) plant factor of 0.3 and be at least 75% local native plants.
- 4) Requires MWELo to prohibit the inclusion of nonfunctional turf in nonresidential landscape projects after January 1, 2026.
- 5) Exempts the following from MWELo:
 - a) Ecological restoration projects that do not require a permanent irrigation system;
 - b) Mined-land reclamation projects that do not require a permanent irrigation system; and
 - c) Existing plant collections as part of botanical gardens and arboretums open to the public.
- 6) Defines the following terms for the purposes of this bill:
 - a) “Local native plants” as California plants indigenous to an area that have evolved and occur naturally in the Jepson Region (as defined and updated by the University of California, Berkeley Jepson eFlora) associated with that area;
 - b) “Nonfunctional turf” as turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events; and

- c) “WUCOLS” as the Water Use Classification of Landscape Species published by the University of California Cooperative Extension and the Department of Water Resources (DWR) in 2014 and its subsequent updates.
- 7) Makes legislative finding and declaration that MWELO furthers the state’s goal to conserve biodiversity and provide for climate resilience.
- 8) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

- 1) Enacts the Water Conservation in Landscaping Act to promote the conservation and efficient use of water in landscape design, installation, maintenance, and management (Government Code § 65591 *et seq.*).
- 2) Requires DWR to update MWELO by January 1, 2009, and to base the update on recommendations in the report required by AB 2717, Chapter 682, Statutes of 2004 (AB 2717 report). Requires local agencies to adopt the updated MWELO or a comparable ordinance that is at least as effective as the updated MWELO by January 1, 2010, and provides that the updated MWELO shall apply if a local agency does not meet this deadline (Government Code § 65595).
- 3) Prescribes the contents of MWELO including, provisions for water conservation, appropriate groupings of plants for different climates, a landscape water budget, and stormwater capture (Government Code § 65596).
- 4) Requires DWR to update MWELO by January 1, 2020, and at least every three years thereafter unless it finds that an update to MWELO is not a useful or effective means to improve the efficiency of landscape water use or administration of MWELO. Requires DWR to solicit public input on an update to MWELO (Government Code § 65596.5).
- 5) Requires local agencies to notify DWR by January 31, 2010, whether they have adopted MWELO or another ordinance that is at least as effective as MWELO (Government Code § 65597).

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, “California is at the forefront of climate change, as it experiences the real-time impacts of extreme weather, water shortages, and the nation’s highest levels of species loss. Action is needed now to conserve natural resources while protecting the state’s remarkable biodiversity. This bill helps unite a growing body of California public policy aimed at water conservation, biodiversity protection, and urban greening.

A recently published report by NatureServe found that 34% of plants and 40% of animal species in the U.S. are at risk of extinction, with California, Texas, and the Southwest leading

the way. California -- the state with the greatest diversity of plant species in the nation and home to 40% of North America's native bee populations -- also has the highest percentage of at-risk species for these vital plants and pollinators.

Despite recent rain and snow, California's long-term water supply situation is dire. The Colorado River Basin, a major source of water for Southern California's urban areas, is deteriorating rapidly. The Commissioner of the U.S. Bureau of Reclamation has stated that reductions of water withdrawals of from 2 to 4 million acre-feet per year, or as much as 1/3 of the recent annual usage of Colorado River water, will be needed to protect water and power operations at Glen Canyon and Hoover Dams, and avoid catastrophic depletion of Lakes Powell and Mead. California and neighboring states have offered different scenarios for Reclamation to consider, but the proposals put forward all envision major reductions, a significant share of which will inevitably fall on California's urban water users.

Today, roughly half of all publicly supplied water is used primarily for landscape irrigation, and much of that irrigation is potable water used on non-functional turf, and turf is the number one irrigated "crop" in the United States."

- 2) **Background.** AB 325, Chapter 1145, Statutes of 1990, enacted the Water Conservation in Landscaping Act requiring DWR to develop MWELo. This model ordinance was adopted and went into effect January 1, 1993, and all local agencies were required to adopt a water efficient landscape ordinance, unless proven unnecessary, by 1993. Subsequently, AB 2717, Chapter 682, Statutes of 2004, requested the California Urban Water Conservation Council (CUWCC) convene a task force in order to evaluate and recommend improving the efficiency of water use in urban irrigated landscapes. The outcome was the AB 2717 report that included 43 recommendations, some of which included updates to MWELo. In 2006, AB 1881 was enacted requiring DWR to update MWELo reflecting the recommendations of the AB 2717 report and public input. The updated MWELo went into effect January 1, 2010, was updated again by Executive Order B-29-15 (April 2015), and has been in effect since December 1, 2015. Local agencies must report to DWR on implementation of MWELo by January 31st each year.

WUCOLS. This project is a comprehensive evaluation of the irrigation water needs of over 3,500 taxonomic plant groups used in California landscapes. The Water Use Efficiency Office within DWR initiated WUCOLS and provided funding to the University of California Cooperative Extension to work with horticulturalists across the state to determine water needs of plants. The first edition of WUCOLS was completed in 1992 and it is now in its 4th edition, completed in 2014. WUCOLS categorizes plants based on water use as follows: "high" with plant factor of 0.7 to 1.0; "medium" with plant factor of 0.4 to 0.6; "low" with plant factor of 0.1 to 0.3; and "very low" with a plant factor of 0 to 0.1. Plants in the "low" category are deemed water conserving because they require little irrigation and those in the "very low" category require no irrigation except during years of below average rainfall. More information on WUCOLS can be found at: <https://ccuh.ucdavis.edu/wucols>.

This bill requires that plants installed in new or renovated nonresidential areas have an average WUCOLS plant factor of 0.3 or less. MWELo does not currently mandate use of plants with a specific plant factor (except that use of "high" water use plants is prohibited in street medians); however, MWELo does require that residential projects have an evapotranspiration adjustment factor (ETAF) no greater than 0.55 and that nonresidential

areas have an ETAF no greater than 0.45. ETAF is a calculation of WUCOLS plant factor divided by irrigation efficiency (0.75 for overhead spray devices and 0.81 for drip systems).

- 3) **Arguments in support.** The Mono Lake Committee supports this bill pointing out that the droughts of recent years have led to circumstances where the demand for potable water exceeds available supply. Tapping existing supplies to close this gap could result in increased conflict amongst users so, taking the approach in this bill “will reduce demand for potable water,” especially imported supplies, therefore, helping reduce conflict over water.
- 4) **Related legislation.** AB 325 (Clute), Chapter 1145, Statutes of 1990, enacts the Water Conservation in Landscaping Act that requires DWR to develop MWELO by January 1, 1992, and requires local agencies to adopt the MWELO by January 1, 1993, or make findings explaining why a local ordinance is not necessary.

AB 2717 (Laird), Chapter 682, Statutes of 2004, requests that CUWCC convene a stakeholder working group to develop, evaluate, and recommend proposals for improving the efficiency of water use in new and existing urban irrigated landscapes in the state and make recommendations, including possible updates to MWELO, to the Governor and Legislature by December 31, 2005.

AB 1881 (Laird), Chapter 559, Statutes of 2006, requires DWR to update MWELO by January 1, 2009, based on recommendations in the report requested by AB 2717 (Laird), Chapter 682, Statutes of 2004, and requires local agencies to adopt the updated MWELO or an alternative ordinance that is at least as effective as MWELO by January 1, 2010.

REGISTERED SUPPORT / OPPOSITION:

Support

Active San Gabriel Valley
 Breast Cancer Prevention Partners
 California Association of Resource Conservation Districts
 California Botanic Garden
 California Native Plant Society
 California Urban Streams Partnership
 Center for Biological Diversity
 Center for Community Action and Environmental Justice
 Clean Earth 4 Kids
 Climate Action Mendocino
 Climate Reality Project, Los Angeles Chapter
 Defenders of Wildlife
 Desal Response Group
 Dry Creek Conservancy
 Endangered Habitats League
 Environmental Water Caucus
 Environmental Working Group
 Families Advocating for Chemical and Toxics Safety
 Friends of Harbors, Beaches and Parks
 Friends of The Santa Clara River

Golden Gate Audubon Society
Good Neighbor Steering Committee of Benicia
Green Foothills
Heal the Bay
Indivisible Marin
Long Beach Gray Panthers
Mono Lake Committee
Morongo Basin Conservation Association
National Resources Defense Council
Nature in The City
Non Toxic Communities
Ojai Valley Green Coalition
Ojai Valley Land Conservancy
Pesticide Action Network
Recolte Energy
Resource Renewal Institute
Sierra Club California
So Cal 350 Climate Action
Southern California Watershed Alliance
The River Project
The Xerces Society for Invertebrate Conservation

Opposition

None on file

Analysis Prepared by: Pablo Garza / W., P., & W. / (916) 319-2096