

ASSEMBLY THIRD READING

AB 1572 (Friedman)

As Amended May 18, 2023

Majority vote

SUMMARY

Prohibits the use of potable water to irrigate nonfunctional turf on commercial, municipal, institutional, and multifamily residential properties. Begins a phase-in of this ban for specified property types beginning January 1, 2027.

Major Provisions

- 1) Defines "nonfunctional turf" as any not functional turf and includes turf located within street rights-of-way and parking lots.
- 2) Defines "functional turf" as a ground cover surface of turf located in a recreational use area or community space. Turf enclosed by fencing or other barriers to preclude human access for recreation or assembly is not functional turf.
- 3) Prohibits the use of potable water to irrigate nonfunctional turf on commercial, industrial, municipal, institutional, and multifamily residential properties and phases this ban in as follows:
 - a) Beginning January 1, 2027, for all properties owned or leased by the Department of General Services;
 - b) Beginning January 1, 2028, for all properties owned by local agencies and public water systems, except those in disadvantaged communities (DAC);
 - c) Beginning January 1, 2029, for all other institutional properties (not covered under #b, above, and all commercial and industrial properties;
 - d) Beginning January 1, 2030, for common areas of all multifamily residential properties and common areas of all homeowner's associations, common interest organizations, and community service organizations, except those in DACs; and
 - e) Beginning January 1, 3031, for common areas of all multifamily residential affordable housing properties and all institutional properties in a DAC.
- 4) Requires the State Water Resources Control Board (State Water Board) to adopt regulations by July 1, 2026, to develop procedures and criteria for compliance extensions (e.g., for economic hardship) and to establish methods of compliance certification by property owners.
- 5) Provides that an entity not in compliance with this bill shall be subject to civil liability of up to \$500 per day of violation and any penalties imposed by an urban water supplier.
- 6) Requires the Department of Water Resources to prioritize water conservation funding to replace nonfunctional turf for public water agencies serving DACs and to owners of affordable housing.

COMMENTS

California, along with other Western states, experienced severe drought conditions from 2021 until this winter. Drought, even extreme drought, is not unusual for this region, but the fact that California experienced such severe dry conditions only a few years after its worst drought on record from 2012-16 has raised alarm bells across the state and the West. The situation in the Colorado River Basin has led U.S. Bureau of Reclamation Commissioner Camille Touton to call for a reduction in use of Colorado River water of between 2 million acre-feet (AF) and 4 million AF annually to avoid loss of power generation and to ensure water deliveries.

California drought emergency 2021-23. Fortunately, wetter conditions allowed Governor Newsom to lift the drought emergency for most regions of the state on March 28, 2023, by issuing Executive Order (EO) N-5-23. The relief is welcome, but the previous three years have been severe. The Governor first declared a drought emergency on April 2021, directing various actions to conserve water, and extended the emergency due to ongoing drought conditions seven times. Because of worsening drought conditions in early 2022, the Governor expanded the state's drought response by issuing EO N-7-22 on March 28, 2022. EO N-7-22 directed a suite of actions, including that the State Water Board consider adopting an emergency regulation banning the irrigation of "nonfunctional turf" in the commercial, industrial, and institutional sectors.

Emergency regulation on nonfunctional turf. Following the Governor's direction, the State Water Board adopted an emergency regulation banning the irrigation of decorative grass, with limited exceptions, that took effect on June 10, 2022. The emergency regulation remains in effect until June 10, 2023. The definition of "nonfunctional turf" in the emergency regulation is slightly narrower than this bill in that it is limited to ornamental turf: "turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Non-functional turf does not include sports fields and turf that is regularly used for human recreational purposes or for civic or community events." In contrast, this bill does not narrow its definition of "nonfunctional turf" to turf that is "solely ornamental," but rather defines it by its designated use. The emergency regulation also includes homeowners' associations (HOA) and common interest developments (CID) in the definition of "commercial, industrial and institutional," but does not include actual residences within HOAs or CIDs. This bill, in contrast, does not cover HOAs and CIDs in its current form.

Nevada nonfunctional turf ban. In 2021, the Nevada Legislature enacted AB 356 (Committee on Ways and Means), Chapter 364, Statutes of 2021 that prohibits the use of Colorado River water to irrigate nonfunctional turf on commercial, multi-family, and institutional properties within the service territory of the Southern Nevada Water Authority (SNWA) or its member agencies beginning January 1, 2027. SNWA serves more than 2.2 million residents in Southern Nevada, including the Las Vegas metropolitan area. AB 356 directed SNWA to define nonfunctional turf and SNWA has, in turn, developed the following definition: "an irrigated grass area not providing functional use;" SNWA indicates that examples include streetscape turf; grass in front of, between, behind or otherwise adjacent to a properties not zoned single-family residential; and turf managed by an HOA that does not provide a recreational benefit to the community. This bill's definition is similar to that used by SNWA.

According to the Author

"There is an urgent need for additional efforts to reduce unnecessary water use in urban areas. Although drought conditions from 2014-2017 were said to be the most severe drought since statehood, California saw dry conditions return quickly, with severe curtailments of State Project water deliveries imposed in 2022. At the same time, water supply conditions deteriorated rapidly in the Colorado River Basin, a major source of water for urban Southern California." The author notes efforts currently underway to address the shortfall of water in the Colorado River Basin as further evidence of the need for California to reduce its overall water use and demand on Colorado River water in particular.

The author notes "a large portion of California's treated drinking water is used to irrigate urban landscapes. In a year without drought restrictions, roughly half of all publicly supplied water is used outdoors, primarily for landscape irrigation.... In a study published in 2005, it was estimated that California had approximately 2.75 million acres of turf grass. Nearly all this turf requires irrigation to survive, and nearly all the irrigation is with treated drinking water."

Arguments in Support

This bill is sponsored by the Natural Resources Defense Council and Heal the Bay (sponsors) that argue this bill "will phase out unnecessary water use in urban areas, support communities in saving both water and money and speed the transition to sustainable alternatives that can keep landscapes beautiful." The sponsors note that California has had policy in place since 1990 to reduce water use for landscape irrigation in urban settings, but that, nonetheless, "a legacy of irrigated decorative grass remains."

Arguments in Opposition

The El Dorado Irrigation District (EID) opposes this bill arguing that: "first, it would impose a one size fits all mandate that conflicts with the flexibility existing laws provide urban retail water suppliers to manage water supplies to meet customer demands and future growth. Second, the irrigation of nonfunctional turf in the EID service area is a beneficial use (municipal and industrial) that the district can accommodate today and into the foreseeable future." Finally, EID also raises concerns that this bill could limit approaches to mitigate heat impacts and urban heat islands resulting from increasing temperatures.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, this bill has the following fiscal impacts:

- 1) The State Water Board estimates annual costs of approximately \$450,000 for three years to adopt required regulations (General Fund or special fund).
- 2) DGS estimates costs of an unknown but potentially significant amount, ranging from tens of thousands to millions of dollars, to vacate noncompliant buildings and property leased by the state and to replace nonfunctional turf on state-owned properties where non-potable water is unavailable for irrigation (General Fund).
- 3) Minor and absorbable costs to the Governor's Office of Business and Economic Development.

VOTES

ASM WATER, PARKS, AND WILDLIFE: 9-3-3

YES: Bauer-Kahan, Bennett, Friedman, Hart, Kalra, Pellerin, Schiavo, Villapudua, Weber

NO: Alanis, Megan Dahle, Davies

ABS, ABST OR NV: Mathis, Blanca Rubio, Ward

ASM APPROPRIATIONS: 11-3-2

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

NO: Megan Dahle, Dixon, Sanchez

ABS, ABST OR NV: Mathis, Robert Rivas

UPDATED

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