
THIRD READING

Bill No: AB 1572
Author: Friedman (D), et al.
Amended: 9/5/23 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-2, 7/3/23
AYES: Min, Allen, Eggman, Limón, McGuire, Padilla, Stern
NOES: Seyarto, Dahle
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 55-18, 5/31/23 - See last page for vote

SUBJECT: Potable water: nonfunctional turf

SOURCE: Heal the Bay
Metropolitan Water District of Southern California
Natural Resources Defense Council

DIGEST: This bill prohibits the use of potable water for irrigation of nonfunctional turf located on commercial, industrial, or institutional properties as specified, and authorizes the State Water Resources Control Board (SWRCB) to create a form for compliance certification.

Senate Floor Amendments of 9/6/23 delete the definition of “multifamily residential property” and make conforming changes.

ANALYSIS:

Existing law:

- 1) Imposes a penalty of up to \$500 per day for violations of water rights or orders or regulations adopted by the State Water Resources Control Board (SWRCB) (Water Code (Wat. C.) § 1846).

- 2) Requires SWRCB, in coordination with the Department of Water Resources (DWR), to adopt long-term standards for outdoor residential use, outdoor irrigation of landscaped areas with dedicated irrigation meters in conjunction with commercial, industrial, and institutional (CII) water use, and a volume for water loss by June 30, 2022 (Wat. C. § 10609.2).
- 3) Defines the following terms relative to water conservation law (Wat. C. § 10608.12):
 - a) “Commercial water user” as a water user that provides or distributes a product or service.
 - b) “Disadvantaged community” as a community with an annual median household income that is less than 80 percent of the statewide average.
 - c) “Industrial water user” as a water user that is primarily a manufacturer or processor of materials or that is primarily engaged in research and development.
 - d) “Institutional water user” as a water user dedicated to public service, including higher education institutions, schools, courts, churches, hospitals, government facilities, and nonprofit research institutions.
 - e) “Large landscape” as a nonresidential landscape as described by performance measures for CII water use adopted by SWRCB.
 - f) “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.
- 4) 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 losses; (e) aggregate estimated water use with variances, as appropriate; and (f) bonus incentives for potable reuse (Wat. C. §10609.20).
- 5) Declares that the use of potable domestic water for nonpotable uses, including outdoor irrigation, is a waste or unreasonable use of water if recycled water is available for these uses (Wat. C. § 13550).

This bill:

- 1) Defines “nonfunctional turf” as any turf that is not functional turf, and includes turf located within street rights-of-way and parking lots.

- a) Defines “functional turf” as ground cover surface of turf located in a recreational use area or community space. Does not include turf enclosed by fencing or other barriers to permanently preclude human access for recreation or assembly.
- 2) Phases out the use of potable water for the irrigation of nonfunctional turf located on CII properties, other than a cemetery, and on properties of homeowners’ associations, common interest developments, and community service organizations or similar entities as follows:
 - a) Beginning January 1, 2027:
 - i) All properties owned by the Department of General Services.
 - ii) All properties owned by local governments, local or regional public agencies, and public water systems, except as specified.
 - b) Beginning January 1, 2028: All other institutional properties and all commercial and industrial properties.
 - c) Beginning January 1, 2029: All common areas of properties of homeowners’ associations, common interest developments, and community service organizations or similar entities.
 - d) Beginning January 1, 2031, or the date a state funding source is made available to fund the conversion of nonfunctional turf to climate-appropriate landscapes for these properties, whichever is later: All properties owned by local governments, local public agencies, and public water systems in a disadvantaged community.

Specifies that the use of potable water is not prohibited to the extent it is necessary to ensure the health of trees and other perennial nonturf plantings, or to the extent necessary to address an immediate health and safety need.

- 3) Authorizes SWRCB, upon showing of good cause, to postpone the above compliance deadlines by up to three years for certain persons, institutions, and businesses, and authorizes SWRCB to create a form to be used for compliance certification.
- 4) Requires public water systems, by January 1, 2027, to revise their regulations, ordinances, or policies governing water service to include these requirements relating to the use of potable water, and requires the public water systems to communicate these requirements to their customers.
- 5) Requires an owner of CII property with more than 5,000 square feet of irrigated area, other than a cemetery, to certify to SWRCB, commencing in

2030 and every three years thereafter through 2039, that their property complies with these requirements.

- 6) Requires an owner of a property with more than 5,000 square feet of irrigated common area that is a homeowners' association, common interest development, or community service organization or similar entity to certify to SWRCB, commencing 2031 and every three years thereafter through 2040, that their property complies with these requirements.
- 7) Provides a person or entity who does not comply with these provisions or regulations adopted pursuant to these provisions is subject to civil liability and penalties, as specified.
- 8) Authorizes a public water system, city, county, or city and county to enforce these provisions.
- 9) Requires the DWR to prioritize financial assistance for nonfunctional turf replacement to public water systems serving disadvantaged communities and to owners of affordable housing when using funds appropriated for water conservation for turf replacement.
- 10) Requires the Governor's Office of Business and Economic Development to support small and minority-owned businesses that provide services that advance these provisions.
- 11) Requires an integrated regional water management plan, which may be prepared and adopted by a regional water management group, to include identification and consideration of the water needs of owners and occupants of affordable housing, including the removal and replacement of nonfunctional turf.
- 12) Makes findings and declarations relating to the use of potable water for the irrigation of nonfunctional turf.

Background

- 1) *California drought emergency.* 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 two million acre-feet (AF) and four million AF annually to avoid loss of power generation and to ensure water deliveries.

Between 2021 – 2023, the state found itself in a drought emergency. The Governor first declared a drought emergency in Mendocino and Sonoma Counties on April 21, 2021, directing various actions to conserve water, and extended the emergency to an additional 39 counties on May 10, 2021. On October 19, 2021, the Governor declared a statewide drought emergency. In total, the emergency was extended seven times due to ongoing drought conditions. Because of worsening drought conditions in early 2022, the Governor expanded the state’s drought response by issuing Executive Order (EO) N-7-22 on March 28, 2022. EO N-7-22 directed a suite of actions, including that the SWRCB consider adopting an emergency regulation banning the irrigation of “nonfunctional turf” in the commercial, industrial, and institutional sectors. On March 28, 2023, Governor Newsom lifted the drought emergency for most regions of the state by issuing EO N-5-23.

- 2) *Emergency regulation on nonfunctional turf.* Following the Governor’s direction, SWRCB adopted an emergency regulation prohibiting the use of potable water for the irrigation of nonfunctional turf at commercial, industrial, and institutional sites, with limited exceptions. The emergency regulation defined “nonfunctional turf” as turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Under the regulations, nonfunctional turf does not include sports fields.

The emergency regulation took effect on June 10, 2022, and will be in effect until June 2024.

[NOTE: See the Senate Natural Resources and Water Committee analysis for additional background information.]

Related/Prior Legislation

AB 1573 (Friedman, 2023) makes changes to required provisions in the Model Water Efficient Landscape Ordinance developed by 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. AB 1573 is on the Senate Floor.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- GO-Biz estimates ongoing costs of about \$136,000 annually (General Fund) for one position to provide information and technical assistance to small and minority-owned businesses.
- Unknown but potentially significant costs, possibly as high as tens of millions of dollars (General Fund), for the Department of General Services (DGS) to replace nonfunctional turf on state-owned properties where nonpotable water is not available for irrigation. DGS notes, however, that costs could be as little as zero if the department did nothing and allowed all nonfunctional turf die off without replacing it. This theoretical possibility is unlikely due to the visual blight that would result, but it does illustrate the wide range of potential DGS costs.
- Unknown, potentially significant costs (General Fund) for the California Department of Education, the University of California, and other state agencies to comply with the provisions of this bill.
- The SWRCB and the DWR anticipate any costs would be minor and absorbable.

SUPPORT: (Verified 9/1/23)

Heal the Bay (co-source)

Metropolitan Water District of Southern California (co-source)

Natural Resources Defense Council (co-source)

Burbank Water and Power

California Alliance for Golf

California Climate Action

California Coastal Protection Network

California Institute for Biodiversity

California Native Plant Society

California Water Efficiency Partnership

Clean Water Action

Climate Action California

Climate Reality Project, California Coalition

Defenders of Wildlife

Eastern Municipal Water District

Environmental Working Group

LAANE
Los Angeles Waterkeeper
Mono Lake Committee
Planning and Conservation League
Sierra Club California
Sonoma County Water Agency

OPPOSITION: (Verified 9/1/23)

California Business Roundtable
California Landscape Contractors Association
Community Associations Institute – California Legislative Action Committee
Santa Margarita Water District

ARGUMENTS IN SUPPORT: According to the author, “[t]here 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 Commissioner of the US Bureau of Reclamation has stated that reductions of water withdrawals of from 2 to 4 million [AF] 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.

“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 much of the state, turf grass became a staple of urban development in both residential and commercial applications as well as public rights-of-way. 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.

“AB 1572 is an extension of past and current state policies to reduce unnecessary water consumption in urban landscapes. It would prohibit the use of drinking water for the irrigation of nonfunctional turf located on commercial, industrial,

municipal, and institutional properties, in stages between January 1, 2027 and January 1, 2031. This will help California businesses and communities save both water and money, and transition to sustainable alternatives that can keep landscapes beautiful.”

ARGUMENTS IN OPPOSITION: According to the Community Associations Institute – California Legislative Action Committee (CAI-CLAC), “AB 1572 would impose a one-size fits all mandate that conflicts with the flexibility existing laws provide urban retail water suppliers to manage water supplies and meet customer demands and future growth.

“CAI-CLAC respectfully requests the deletion of recent amendments to AB 1572 that include homeowner associations (HOA) in the application of its provisions to multifamily residential units. The irrigation of natural turf in an HOA setting can be complicated in that natural turf can be a feature provided in a common element, limited common element, or exclusive common element.

“One example of the latter is a small natural turf element in front of a home or condominium that is similar to the front lawn of a single-family home but is cared for by the HOA. The cost to transition to non-potable irrigation in an HOA would be borne by the homeowner through increased assessments. The one-size-fits-all approach in your legislation will lead to uneven impacts in HOA communities.”

ASSEMBLY FLOOR: 55-18, 5/31/23

AYES: Addis, Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Schiavo, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Alvarez, Bains, Stephanie Nguyen, Pacheco, Rodriguez, Blanca Rubio, Soria

Prepared by: Genevieve Wong / N.R. & W. / (916) 651-4116
9/6/23 9:48:16

**** **END** ****