
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

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Bill No: SB 676
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LOCAL ORDINANCES AND REGULATIONS: DROUGHT-TOLERANT LANDSCAPING

Prohibits local agencies from banning the installation of drought-tolerant landscaping using living plant material and repeals existing provisions allowing them to reasonably restrict the installation of synthetic grass or artificial turf on residential property.

Background

California's drought. In October 2021, Governor Newsom issued a proclamation extending the statewide drought emergency and urging Californians to increase their water conservation efforts. In recent years, a number of local governments and agencies have established rebate and other incentive programs to encourage residents to curb water use. For instance, the Municipal Water District of Orange County offers a turf removal program that replaces water-intensive grass with climate-appropriate landscapes, thus reducing customers' water use by up to 70 percent. Likewise, the Sacramento County Water Agency's "cash for grass" program provides a voluntary rebate of up to \$2,000 to residential customers for converting grass and sprinkler irrigation to drip irrigation systems.

Local artificial turf regulations. State law prohibits local governments from adopting ordinances or regulations that ban the installation of drought-tolerant landscaping, synthetic grass, or artificial turf on residential property (AB 1164, Gatto, 2015). However, local agencies can restrict the type of drought-tolerant landscaping, synthetic grass or artificial turf that residents can install on their properties, provided such restrictions are reasonable and do not do any of the following:

- Substantially increase the cost of installation;
- Effectively prohibit the installation; or,
- Significantly impede the installation, including, but not limited to, requiring a residential yard to be completely covered with living plant materials.

In response to this restriction authority, some local jurisdictions, such as the City of Glendale, have excluded the installation of artificial or synthetic turf from their turf replacement rebate program because it does not meet specified sustainability goals. Others, such as the City of Millbrae, have enacted a temporary moratorium on the use of artificial turf and synthetic grass to allow City staff time to develop and prepare a permanent ordinance prescribing landscape standards, specifications, and a process for regulating installation methods.

The use of artificial turf has come under scrutiny in recent years due to health concerns that have been raised about its chemical components, including the presence of perfluoroalkyl and

polyfluoroalkyl substances (PFAS). According to the State Water Resources Control Board, PFAS are a large group of human-made substances that do not occur naturally in the environment and are resistant to heat, water, and oil. PFAS have been widely used as surface coatings and protectants in consumer goods such as carpet and home textiles; clothing; food packaging; and non-stick cookware. Exposure can occur through food, food packaging, consumer products, house dust, and drinking water.

Seeking to further discourage the use of artificial or synthetic turf in water-conscious landscaping, the author wants to repeal existing law restricting local agencies' authority over the type of drought-tolerant landscaping, synthetic grass or artificial turf that residents can install on their properties and instead prohibit local agencies from banning the installation of drought-tolerant landscaping using living plant material.

Proposed Law

Senate Bill 676 prohibits a charter city, county, or city and county, from enacting or enforcing any ordinance or regulation that bans the installation of drought-tolerant landscaping using living plant material on residential property.

For purposes of this prohibition, the bill provides that “drought-tolerant landscaping” shall not include the installation of synthetic grass or artificial turf, meaning that local agencies may ban the installation of synthetic grass or artificial turf.

The measure repeals existing law authorizing local agencies to impose reasonable restrictions on the type of drought-tolerant landscaping, synthetic grass or artificial turf that residents can install on their properties.

The bill also includes necessary legislative findings and declarations to apply its provisions to charter cities.

State Revenue Impact

No estimate.

Comments

1. **Purpose of the bill.** According to the author, “California is facing one of the worst and most prolonged droughts as climate change exacerbates weather patterns, bringing higher temperatures and less precipitation. In an effort to conserve water, the state and many municipalities have implemented strict water conservation policies including the restriction of lawn watering. As a result, some Californians have transitioned to drought-resistant landscaping options, including artificial turf, to reduce household water usage.

The Legislature enacted a law in 2016 that prohibits local governments from banning or regulating artificial turf in their jurisdictions in an effort to encourage a transition to landscaping alternatives that use less water. However, emerging research reveals that artificial turf incurs significant environmental problems through pollution, chemical run-off, and lack of recyclability. A 2019 U.S. Environmental Protection Agency study found per- and poly-fluoroalkyl substances (PFAS) in artificial turf – chemicals used since the 1950s to make

commercial and industrial products that resist heat, stains, and grease and have been linked to numerous health problems including cancer, kidney and liver damage, birth defects, and harm to children's health.

Like most plastics, artificial turf has a limited life span. It is rarely recycled due to the high cost of separating and cleaning the material, as well as market constraints on reusability. When artificial turf needs to be replaced, it is commonly disposed in landfills where it continues to leech toxins into the surrounding soil, water, and air. SB 676 will return power to cities and counties to ban or regulate artificial turf in their communities to manage the associated environmental and waste impacts.”

2. Home rule. The police power is the inherent authority of sovereign governments to regulate private behavior, consistent with constitutional rights and procedures. Under the California Constitution, the police power is delegated to cities and counties to "make and enforce within [their] limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws" (Article XI, Section 7). Courts have interpreted the police power as including the power to regulate the physical appearance of the environment within a community, including ordinances that enforce aesthetic standards. In this regard, existing law allows a local government to establish reasonable design and quality restrictions related to the type of artificial turf a resident can use, including, for example, color and replacement requirements, as long as those restrictions do not effectively make it impossible for residents to install the artificial turf. This bill removes this authority and instead permits local agencies to regulate, including to ban, the installation of artificial or synthetic turf in their communities.

3. Related legislation. On March 29th, the Committee approved SB 414 (Allen), which prohibits local agencies from issuing state-funded rebates, vouchers, or other financial incentives for drought-tolerant landscaping that uses synthetic grass or artificial turf. On April 19th, the author amended this bill to delete its contents and insert the current ones, which amend the same section as SB 414 but instead prohibit local agencies from enacting or enforcing any ordinance or regulation that bans the installation of drought-tolerant landscaping using living plant material on residential property. Because SB 676 specifies drought-tolerant landscaping does not include the installation of synthetic grass or artificial turf and repeals existing provisions authorizing local agencies to reasonably restrict such installation, the bill has the effect of allowing local agencies to ban it in their jurisdictions.

4. Charter cities. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. However, the Constitution does not define “municipal affairs,” leaving it to the courts to determine whether a topic is a municipal affair or an issue of statewide concern. SB 676 specifies that it applies to all cities, including charter cities. To support this assertion, the bill includes a legislative finding that allowing residential property owners to install drought-tolerant landscaping is a matter of statewide concern.

Support and Opposition (4/21/23)

Support:

National Stewardship Action Council
Plant California Alliance

Opposition: None submitted.

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