SENATE COMMITTEE ON APPROPRIATIONS
Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 638 (Celeste Rodriguez) - Stormwater: uses: irrigation

Version: July 3, 2025
Urgency: No
Hearing Date: August 18, 2025

Policy Vote: E.Q. 8 - 0, N.R. & W. 7 - 0
Mandate: No
Consultant: Ashley Ames

Bill Summary: This bill would require the State Water Resources Control Board (State Water Board) to develop recommendations for stormwater capture and use for the irrigation of urban public lands, as defined by the bill.

Fiscal Impact:
- The State Water Board estimates limited-term costs of $250,000 over two years to develop the recommendations, manage public feedback, and secure board approval. Additionally, the State Water Board estimates one-time costs of $1 million in contracting costs for scientific work to build the basis for recommendations that are protective of public health. (Waste Discharge Permit Fund) .

Background: The Stormwater Resources Planning Act (Act) defines "stormwater" as temporary surface water runoff and drainage generated by immediately preceding storms. The Act authorizes one or more public agencies to develop a Stormwater Resources Plan (Plan). A plan, among other things, is required to (1) be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits, and (2) be consistent with all applicable waste discharge permits.

The Act also required the State Water Board to establish guidance for implementing the Act, including, but not limited to, the following:

- Identifying types of local agencies and nongovernmental organizations that need to be consulted in developing a stormwater resource plan.

- Defining appropriate quantitative methods for identifying and prioritizing opportunities for stormwater and dry weather runoff capture projects.

- Defining the appropriate geographic scale of watersheds for stormwater resource planning.

- Other guidance the board deems appropriate to achieve the objectives of this part.

On December 15, 2015, the State Water Board adopted its "Storm Water Resource Plan Guidelines" (Guidelines). The Guidelines require, among other things, that stormwater resource plans address or provide formal reference addressing the following provisions:

- California Environmental Quality Act Compliance.

- Consistency with Water Quality Control Plans, Applicable Water Quality Control Policies, and Water Rights.

- Consistency with Applicable Permits.

Additionally, the Guidelines, recognizing the intent to encourage stormwater and dry weather runoff projects that provide multiple public water quality and supply benefits, provided that plans should prioritize individual projects and programs for implementation based on various factors to assure water quality, water supply, conservation, and community needs are addressed. One of the types of projects and programs that the Guidelines identified as appropriate for prioritization are "projects that augment local water supplies such as: (1) projects that use captured storm water and dry weather runoff to recharge groundwater; and (2) projects that store and use captured storm water and dry weather runoff for irrigation or other permitted uses."

California's Water Supply Strategy: Adapting to a Hotter Drier Climate. In August 2022, the Newsom Administration released *California's Water Supply Strategy: Adapting to a Hotter Drier Climate* (Water Supply Strategy), a multi-agency strategy document to address a projected 10% decrease in water supply (6–9 million acre-feet (MAF) of water per year) by 2040 due to climate change. To address this potential decrease in water, the Water Supply Strategy targeted certain actions, including:

- Expanded water storage: 4 MAF of surface water and groundwater storage.

- New supply: 2.4 MAF to be achieved through increased water recycling (approximately 1.82 MAF), desalination (84,000 AF), and stormwater capture (500,000 AF)

- Demand reduction: 500,000 AF through increased water conservation.

Thus, the Water Supply Strategy identifies 2.9 MAF of "new" water (water recycling, desalination, stormwater capture, and increased supplies from conservation) and 4 MAF of increased storage capacity, for a total of about 7 MAF, to "close the evaporative gap."

Proposed Law: This bill would amend the Act to:

1. Require, on or before December 1, 2026, the State Water Board to develop recommendations for stormwater capture and use for the irrigation of urban public lands for the purpose of providing guidance.

    a. Defines "urban public lands" to mean land in an urban area that is owned by the state, a city, or a county, or land that has been dedicated for public assess, including, but not limited to, parks, street medians and parkways, and golf courses.

2. Require the recommendations address at least both of the following:

    a. Opportunities for use of captured stormwater for irrigation to offset potable water demand in a manner that poses minimal to no public health risks.

   b. Recommendations for pathogens and pathogen indicators, total suspended solids, toxics, and structural and nonstructural best management practices to reduce potential health risks.

3. Require the State Water Board to solicit and receive written public comment on the proposed recommendations.

4. Require the State Water Board to approval the final recommendations following the completion of a public hearing.

Related Legislation:

SB 31 (McNerney) of the current legislative session would encourage the use of recycled water by changing the requirements for the use of recycled water in specified scenarios.

SB 867 (Allen, Chapter 83, Statutes of 2024) enacted the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, which, once approved by voters (via Prop 4), authorized the issuance of bonds in the amount of $10 billion, including $110 million for grants for multi-benefit urban storm water management projects.

AB 2106 (R. Rivas, 2022) required the State Water Board to modernize its stormwater tracking system, on or before December 31, 2025, and to establish a statewide commercial, industrial, and institutional NPDES order. This bill was vetoed by the Governor.

AB 2594 (Gordon, Chapter 526, Statutes of 2016) specifies that a public entity that captures stormwater in an urban area before the water reaches a natural channel, in accordance with a stormwater resources plan, is entitled to use the captured water.

AB 1471 (Rendon, Chapter 188, Statutes of 2014) enacted the Water Quality, Supply, and Infrastructure Improvement Act of 2014, which, once approved by voters (via Prop 1), authorized the issuance of bonds to finance a water quality, supply, and infrastructure improvement program.

SB 985 (Pavley, Chapter 555, Statutes of 2014) made changes to the state's Stormwater Resource Planning Act, required that the plans identify and prioritize storm water and dry weather runoff capture projects for implementation, and required the State Water Board to establish, by July 1, 2016, guidance for implementation of the Stormwater Resource Planning Act.

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