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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair  
2025 - 2026 Regular Session

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**SB 1081 (Laird) - Waste discharge requirements: minimum penalties: exception: publicly owned treatment works**

**Version:** April 9, 2026

**Urgency:** No

**Hearing Date:** April 27, 2026

**Policy Vote:** E.Q. 6 - 0

**Mandate:** No

**Consultant:** Ashley Ames

**Bill Summary:** This bill would expand the authorization for the State Water Resources Control Board (state board) or nine regional water quality control boards (regional board) to require funding of a compliance project in lieu of the otherwise mandatory penalty to apply to a publicly owned treatment works (POTW) serving a population of 3,000 persons or fewer, with a financial hardship, determined by the state board, within the 10 years preceding the assessment of the penalty.

**Fiscal Impact:**

- Ongoing forgone revenues of an unknown but potentially significant amount (State Water Pollution Cleanup and Abatement Account) due to expanded eligibility for compliance projects to POTWs that serve communities with 3,000 residents or less, with a financial hardship, determined by the state board, within the 10 years preceding the assessment of the penalty.
- The State Water Board does not anticipate any costs.

**Background:**

*Enforcing the Clean Water Act (CWA).* The CWA prohibits any entity from discharging pollutants from a point source into a Water of the United States without a National Pollutant Discharge Elimination System (NPDES) permit, which prescribes limits on what can be discharged, requires monitoring and reporting to regulatory agencies, and may impose best management practices. POTWs are wastewater treatment facilities that treat domestic and/or industrial wastewater and hold NPDES permits.

If a permitted discharger, such as a POTW, violates a condition set in its permit, such as exceeding an effluent limitation or a failure to report, they are subject to civil and administrative liability and may face monetary penalties. For specified violations of an NPDES permit, an administrative civil liability for the mandatory minimum penalty (MMP) of \$3,000 or more is required to be assessed by the State or Regional Water Boards. These types of penalties are deposited into the State Water Pollution Cleanup and Abatement Account.

The State and Regional Water Boards prioritize enforcement and strive to ensure that enforcement is firm, fair, and consistent across the state. Enforcement actions taken in response to violations are intended to be consistent amongst violations that are similar in nature and have similar water quality impacts. They are also meant to ensure a discharger returns to compliance in a timely manner. The policy framework around enforcement influences the nature and frequency of how MMPs are issued.

*Mandatory minimum penalties.* Prior to the establishment of MMPs, the issuance of enforcement actions and penalties were at the discretion of the State Water Board and nine Regional Water Boards, which led to an uneven assessment of penalties for violations. SB 709 (Committee on Budget and Fiscal Review, Chapter 93, Statutes of 1999) and further amendments required MMPs of \$3,000 to be assessed for serious or chronically repeated violations, as specified and under prescribed circumstances. MMPs can be assessed for effluent or reporting violations and the penalties are intended to bring the permitted facilities into compliance with their NPDES permits. From 2018-2024, the Regional Water Boards have issued over 20,000 MMPs to NPDES permittees leading to millions of dollars deposited in the Cleanup and Abatement Account.

The State and Regional Water Boards have the authority to divert all or a portion of the assessed MMPs to related projects that will be conducted by the violator. For any permitted discharger, a portion of the MMP can be allocated towards a supplemental environmental project (SEP) instead of being deposited in the Cleanup and Abatement Account. For POTWs, all or a portion of the MMP can be put towards the completion of a compliance project, but only if the POTW serves a small community with a financial hardship.

*Compliance projects for communities with financial hardships.* For a POTW that serves a small community and has a determined financial hardship, the State or Regional Water Boards are authorized to allow a POTW to put the MMP amount towards the completion of a project that will promote their compliance, instead of assessing the MMP to be deposited in the Cleanup and Abatement Account. This determination is made by the State and Regional Water Boards and depends on a few factors. The POTW must serve a population of 20,000 or fewer or a rural county, and satisfy at least one of the following criteria:

- a) The median household income must be less than 80% of the California median household income;
- b) The unemployment rate of the community must be 10% or greater; or,
- c) At least 20% of the population is below the poverty level.

Completed compliance projects would prevent subsequent violations and may be funded primarily through connection and monthly service fees paid for by the residents in the community. If the community suffers from a financial hardship, then ratepayers may be sensitive to rate increases that would support compliance projects or the POTW may receive insufficient funding if residential arrearages (unpaid bills) are high. This may make it difficult for POTWs to fund their compliance projects, and a continued assessment of MMPs may further inhibit a POTW's ability to comply. Hence, this allowance for MMPs to go towards compliance projects promotes POTWs' compliance with their NPDES permits while mitigating the financial burdens on affected POTWs.

Even though the criteria used to determine financial hardship are clear, real-world circumstances that might impact the financial ability of a POTW to comply with its permit can be complex. For example, if the costs of water bills are extreme or the residential arrearage burden is high, the ability of a POTW to invest in its system could be impacted, regardless of whether the financial hardship criteria is met. A 2022 Drinking

Water Assessment conducted by the State Water Board found that water systems serving communities with a median household income greater than 80% of the state's median household income still experienced affordability challenges through indicators such as extreme water bills and high residential arrearages.<sup>5</sup> In light of such considerations, POTWs can propose a local survey or alternative justification approved by the regional water board if they do not believe the U.S. Census data accurately represents the population they serve. But ultimately, the current statute is limited in its flexibility in determining whether a community faces a financial hardship, and POTWs that experience other forms of financial hardship may not be eligible for compliance projects.

**Proposed Law:** This bill would expand the authorization for the State Water Resources Control Board (state board) or nine regional water quality control boards (regional board) to require funding of a compliance project in lieu of the otherwise mandatory penalty to apply to a publicly owned treatment works (POTW) serving a population of 3,000 persons or fewer, with a financial hardship, determined by the state board, within the 10 years preceding the assessment of the penalty.

**Related Legislation:**

AB 355 (Chu, Chapter 524, Statutes of 2017) defined POTW serving a small community as a POTW serving a population of 20,000 persons or fewer or a rural county, with a financial hardship.

AB 640 (Logue, 2011) would have expanded the eligibility for compliance projects to POTWs serving rural counties.

SB 2165 (Sher, Chapter 807, Statutes of 2000) prescribed circumstances under which MMPs would not apply and outlined the conditions for serious and chronically repeat violations in which an MMP would apply.

SB 709 (Committee on Budget and Fiscal Review, Chapter 93, Statutes of 1999) required mandatory minimum penalties of \$3,000 to be assessed under prescribed circumstances.

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