SENATE THIRD READING
SB 31 (McNerney)
As Amended June 9, 2025
Majority vote

## SUMMARY

Changes requirements regarding recycled water relative to unauthorized discharges to waters of the state, decorative bodies of water, landscape irrigation, and its use at or near food handling and processing facilities and cafeterias.

**Major Provisions**

1) Clarifies the definition of "recycled water" for purposes of notification requirements for unauthorized discharges into waters of the state, to mean treated water that has entered a storage tank, pipeline, or canal for conveyance or distribution (so that discharges of recycled water are not considered discharges of sewage water).

2) Provides that a person who permits a discharge of recycled water from a decorative body of water into waters of the state during a storm event shall not be required to notify the relevant regional water quality control board of the discharge if the recycled water was used to restore water levels due to evaporation.

3) Defines "decorative body of water" for purposes of this bill as an impoundment for aesthetic enjoyment or landscape irrigation in which recycled water is stored or used and is not intended to include public contact.

4) Provides that incidental amounts of spray, mist, or runoff are permitted to enter outdoor eating areas of parks and open spaces that are irrigated with disinfected tertiary treated recycled water if the method of irrigation complies with requirements for irrigation scheduling under the Model Water Efficient Landscape Ordinance (23 California Code of Regulations 493.4).

5) Provides that outdoor landscape irrigation of common areas that does not enter the boundaries of a residence is not considered part of an individual residence and is, therefore, not required to be a "dual plumbed system" in order to use recycled water for irrigation.

6) Expands the definition of "structures" to include food handling and processing facilities for purposes of determining whether the use of potable domestic water for toilet and urinal flushing in structures is a waste or unreasonable use of water.

7) Permits the use of recycled water for toilet or urinal flushing or outdoor irrigation in and around food handling or processing facilities, commercial, institutional, and industrial buildings, and cafeterias, provided the recycled water does not enter the room where food handling or processing occurs. Permits recycled water to pass through a room where food processing or handling occurs if it is conveyed through closed piping. Prohibits outdoor irrigation with recycled water while food is being handled or processed outside.

## COMMENTS

Water recycling, also known as reclamation or reuse, is an umbrella term encompassing the process of treating wastewater and storing, distributing, and using recycled water. Recycled water means water that, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource. Recycled water is most commonly used for nonpotable (not for drinking) purposes, such as agriculture, landscape, public parks, and golf course irrigation. Other nonpotable applications include cooling water for power plants and oil refineries; water for industrial processes for facilities such as paper mills and carpet dyers; toilet flushing; dust control; construction activities; concrete mixing; and artificial lakes.

Given California's arid climate and experience with drought, there has been interest in expanding the use of recycled water to augment California's water supply for decades. The Water Recycling Act of 1991 set California water recycling goals at 700,000 acre-feet (AF)/year by 2000 and 1 million AF by 2010. Ten years later, Assembly Bill 331 [(Goldberg) Chapter 590, Statutes of 2001] was enacted to require the Department of Water Resources to convene the Recycled Water Task Force (Task Force) to investigate the opportunities and constraints for increasing the industrial and commercial use of recycled water. The Task Force projected that by 2030, if financial resources become available for water recycling projects, the total recycled water use would increase from about 525,000 AF to more than two million AF a year. On December 11, 2018, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2018-0057, amending the Recycled Water Policy. The amendment sets a goal of increasing the use of recycled water from 714,000 AF per year in 2015 to 1.5 million AF per year by 2020 and to 2.5 million AF per year by 2030.

The Uniform Statewide Recycling Criteria includes requirements for recycled water quality and wastewater treatment for the various types of allowed recycled water uses in California. For nonpotable reuse applications, there are four types of recycled water based on levels of treatment. The level of treatment used depends upon the intended use of the recycled water. Non-disinfected secondary recycled water is water with the lowest level of treatment, suitable for applications that have minimal public exposure levels, such as irrigation for fodder crops. Disinfected tertiary recycled water is treated to higher levels sufficient for applications with more public exposure, such as the irrigation of parks, use in decorative fountains, or artificial snowmaking for commercial outdoor use. An approved Title 22 Engineering Report addressing the protection of public health is required before an authorization to use recycled water is granted. As of 2023, the engineering report guidelines require protection measures for outdoor eating areas and measures to minimize public contact.

**According to the Author**
"Climate change is subjecting California to more extreme droughts caused by prolonged hot temperatures and dry weather. Over the next 10 years, California risks losing 10% of its water supplies. To meet the state's growing water demands, California has embraced the practice of recycling water, rather than treating water like a single-use product. Recycled water increases our state's water efficiency, helps drought-proof communities, and builds California's resilience to climate change. [This bill] will help California close the gap in its water needs by making it easier to safely use recycled water in outdoor irrigation at homes, businesses, parks, and golf courses."

**Arguments in Support**
WateReuse supports this bill and asserts that it will help realize the state's goals for the use of recycled water and "take important steps to allow the expanded use of recycled water in an efficient and safe manner." WateReuse notes that this bill focuses on non-potable uses of water and asserts "maximizing the use of recycled water in place of potable water is a critical piece for local communities to reduce demand on drinking water supplies while following all regulations that protect the health and safety of Californians."

**Arguments in Opposition**
None on file.

## FISCAL COMMENTS

According to the Assembly Appropriations Committee:

By expanding the scope of allowable recycled water applications, this bill is likely to result in an increased workload for State Water Board and regional water board staff. However, the magnitude of these costs, which will likely be borne by the Waste Discharge Permit Fund (WDPF), is unknown and will depend on the number of new permit applications and requests for permit renewals and amendments the boards receive every year.

The State Water Board estimates ongoing annual costs of about $1 million to hire new staff. Specifically, DDW anticipates needing $500,000 to rewrite existing permits and review the anticipated increase in Title 22 engineering reports. The Division of Water Quality and the regional water boards anticipate needing $500,000 to perform permit reviews and renewals, amend notices of applicability, approve additional use areas, and facilitate new enrollments.

Trailer bill language as part of the fiscal year 2023-24 budget authorized the State Water Board to assess fees for recycled water permits. This fee revenue, which is deposited in the WDPF, is to support new positions (about 15 total) working specifically on permitting of recycled water projects. It is not clear if these recently authorized fees and additional staff are able to absorb the costs and workload created by this bill.

## VOTES

**SENATE FLOOR: 38-0-2**
**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
**ABS, ABST OR NV:** Limón, Reyes

**ASM WATER, PARKS, AND WILDLIFE: 10-0-3**
**YES:** Papan, Jeff Gonzalez, Bains, Bennett, Boerner, Caloza, Hart, Celeste Rodriguez, Rogers, Tangipa
**ABS, ABST OR NV:** Alvarez, Ávila Farías, Macedo

**ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-0**
**YES:** Connolly, Ellis, Bauer-Kahan, Castillo, Lee, McKinnor, Papan

**ASM APPROPRIATIONS: 15-0-0**
**YES:** Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta, Tangipa

## UPDATED

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