



August 24, 2017

The Honorable Robert Hertzberg, Chair  
Senate Committee on Natural Resources and Water  
State Capitol, Room 4038  
Sacramento, CA 95814

The Honorable Nancy Skinner  
State Capitol, Room 2059  
Sacramento, CA 95814

The Honorable Laura Friedman  
State Capitol, Room 2137  
Sacramento, CA 95814

**Re: Support, only if Amended, for AB 1668 (Friedman) and SB 606 (Hertzberg and Skinner), As Amended August 21, 2017**

Dear Senator Hertzberg, Senator Skinner and Assembly Member Friedman:

The Cities of Roseville (Roseville) Sacramento (Sacramento), and the Placer County Water Agency (PCWA) are writing to offer our support for AB 1668, as amended on 8/21/17, contingent upon our suggested amendments being adopted. We appreciate the complexity of this matter and the short timeframe available to make any requested changes. In the event that these amendments are not accepted, we urge you and other members of the Legislature to hold over your measure until next year so that the Legislature and stakeholders can identify a broadly supported path forward.

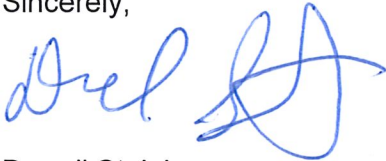
Our agencies collectively provide a potable water that serves more than 220,000 customer accounts and a combined population of approximately 755,000 residents. Roseville and PCWA have been committed to water efficiency for many years and supports advancing water use efficiency through local decisions and investments. Sacramento is committed to water use efficiency and has recently accelerated our meter installation program and adopted programs and ordinances to reduce customer demands.

We seek amendments that would result in improved water use efficiency statewide. Furthermore, the amendments would strike the right balance which allows the Legislature to maintain authority and oversight over long-term water use target setting while providing the Administration the ability to use its technical knowledge in developing the targets. Additionally, the amendments provide the Administration the appropriate enforcement tools.

Lastly, these amendments also honor the longstanding role of local government in wise and efficient use of local water resources. We believe that advancing water use efficiency in California in the future will be most successful with pragmatic state policy that balances the state's policy objectives while also supporting successful local agency efficiency programs, local water resources management and local drought resiliency investments.

We look forward to working with the members of the Legislature in crafting a bill that meets the needs of the Legislature, the Administration and local water agencies. If you or your staff have any questions, please contact Jim Peifer at (916) 808-1416 or [JPeifer@CityofSacramento.org](mailto:JPeifer@CityofSacramento.org) or Sean Bigley at (916) 605-9780 or [sbigley@roseville.ca.us](mailto:sbigley@roseville.ca.us).

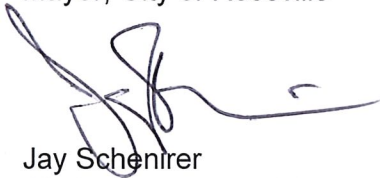
Sincerely,



Darrell Steinberg  
Mayor, City of Sacramento



Susan Rohan  
Mayor, City of Roseville



Jay Schenirer  
Chair, Law and Legislation Committee, City of Sacramento



Robert Dugan  
Board Chair, Placer County Water Agency

Attachment: Amendments to AB 1668/SB 606

ASSEMBLY BILL 1688 (FRIEDMAN)

August 21, 2017 version

Amendments from the Cities of Roseville and Sacramento, and the Placer County Water Agency

**SEC. 2.**

*Section 377 of the Water Code is amended to read:*

**377.**

(a) From and after the publication or posting of any ordinance or resolution pursuant to Section 376, a violation of a requirement of a water conservation program adopted pursuant to Section 376 is an infraction misdemeanor. A person may be fined ~~convicted~~ under this subdivision shall be punished by imprisonment in the county jail for not more than 30 days, or by a fine an amount not to exceed one thousand dollars (\$1,000), or by both.

(b) A court or public entity may hold a person civilly liable in an amount not to exceed ten thousand dollars (\$10,000) for a violation of any of the following:

(1) An ordinance or resolution adopted pursuant to Section 376.

(2) ~~An emergency~~ An emergency regulation adopted by the board under Section ~~1058.5, 1058.5, or Chapter 9 (commencing with Section 10609) of Part 2.55 of Division 6~~, unless the board regulation provides that it cannot be enforced under this section. ~~Section or provides for a lesser applicable maximum penalty.~~

**SEC. 7.**

*Section 10608.12 of the Water Code is amended to read:*

Add a definition for performance measure:

“Performance measures” means best management practices designed to promote the efficiency use of water within the commercial, industrial and institutional sectors that are feasible, practicable and have a cost-benefit ratio in excess of 1.0 when the individualized cost of implementing the best management practice for the end user is compared to the value of the volume of water saved by the end user.

**SEC. 11.**

*Chapter 9 (commencing with Section 10609) is added to Part 2.55 of Division 6 of the Water Code, to read:*

**CHAPTER 9. Urban Water Use Objectives and Water Use Reporting**

**10609.**

(a) The Legislature finds and declares that this chapter establishes a method to estimate the aggregate amount of water that would have been delivered the previous year by an urban retail water supplier if all that water had been used efficiently. This estimated aggregate water use is the urban retail water supplier’s urban water use objective. The method is based on water use efficiency standards and local service area characteristics for that year. By comparing the amount of water actually used in the previous year with the urban water use objective, local urban water suppliers will be in a better position to help eliminate unnecessary use of water; that is, water used in excess of that needed to accomplish the intended beneficial use.

(b) The Legislature further finds and declares all of the following:

(1) This chapter establishes standards and practices for the following water uses:

(A) Indoor residential use.

- (B) Outdoor residential use.
  - (C) CII water use.
  - (D) Water losses.
  - (E) Other unique local uses and situations that can have a material effect on an urban water supplier's total water use.
- (2) This chapter further does all of the following:
- (A) Establishes a method to calculate each urban water use objective.
  - (B) Considers recycled water quality in establishing efficient irrigation standards.
  - (C) Requires the department to provide or otherwise identify data regarding the unique local conditions to support the calculation of an urban water use objective.
  - (D) Provides for the use of alternative sources of data if alternative sources are shown to be as accurate as, or more accurate than, the data provided by the department.
  - (E) Requires annual reporting of the previous year's water use with the urban water use objective.
  - (F) Provides a credit for a portion of the amount of potable recycled water used the previous year when comparing the previous year's water use with the urban water use objective.
- (3) This chapter requires the department and the board to solicit broad public participation from stakeholders and other interested persons in the development of the standards and the adoption of regulations pursuant to this chapter.
- (4) This chapter preserves the Legislature's authority over long-term water use efficiency target setting and ensures appropriate legislative oversight of the implementation of this chapter by doing all of the following:
- (A) Requiring the Legislative Analyst to conduct a review of the implementation of this act, including compliance with the adopted standards and regulations, accuracy of the data, use of alternate data, an evaluation of the potential unintended consequences of the act and a means to correct them, and other issues the Legislative Analyst deems appropriate.
  - (B) Stating legislative intent that the director of the department and the chairperson of the board appear before the appropriate Senate and Assembly policy committees to report on progress on the development and in implementation of this chapter.
  - (C) Providing one-time-only authority to the department and board to adopt water use efficiency standards, except as explicitly provided in this chapter. Authorization to update the standards shall require separate legislation.
- (c) It is the intent of the Legislature that the following principles apply to the development and implementation of long-term standards and urban water use objectives:
- (1) Local urban water suppliers should have primary responsibility for meeting standards-based water use targets, and they shall retain the flexibility to develop their water supply portfolios, design and implement water conservation strategies, educate their customers, and enforce their rules.
  - (2) Long-term standards and urban water use objectives should advance the state's goals to mitigate and adapt to climate change.
  - (3) Long-term standards and urban water use objectives should acknowledge the shade, air quality, and heat-island reduction benefits provided to communities by trees through the support of water-efficient irrigation practices that keep trees healthy.
  - (4) Long-term standards and urban water use objectives shall recognize differences in climate, lot size, age of housing stock, industrial mix, and other external factors affecting rates of water use in

the setting of reasonable efficiency standards and in allowing local agencies flexibility in how to meet targets.

(5) Long-term standards and urban water use objectives shall be developed with the advice of, and in consideration of, input from all affected parties and interest groups.

(6) Long-term standards and urban water use objectives shall be based on Best Management Practices (BMPs) and the best available data and science.

(7) Standards and urban water use objectives shall be based on sound technical analysis of data to be developed by DWR in collaboration with stakeholders.

(8) Proposed long-term standards and urban water use objectives developed by the department shall be provided as a technical report to the board and the Legislature.

(9) With the technical report, the department and the board, with the department as lead agency, shall prepare an environmental document concerning the effects of the proposed long-term standards and urban water use objectives, and any related regulations, prior to the adoption of the board's adoption of the standards.

(104) The state should identify opportunities for streamlined reporting, eliminate redundant data submissions, and incentivize open access to data collected by urban and agricultural water suppliers.

#### **10609.2.**

(a) The board, in coordination with the department shall evaluate and adopt develop long-term standards for the efficient use of water pursuant to this chapter on or before June 30, 2021.

(b) The board shall adopt the long-term standards as developed by the department by September 30, 2021. Prior to the board's adoption of those standards, the director of the department and the chairperson of the board shall appear before the appropriate policy committees of both houses of the Legislature to present the proposed standards and discuss their terms and effects.

(c) Standards shall be adopted for all of the following:

(1) Outdoor residential water use.

(2) Outdoor irrigation of landscape areas with dedicated irrigation meters in connection with CII water use.

(3) A volume for water loss.

(ed) The long-term standards shall be set at a level designed to meet the statewide conservation targets required pursuant to Chapter 3 (commencing with Section 10608.16).

(de) The board, in coordination with the department, may shall adopt by regulation variances recommended developed by the department pursuant to Section 10609.14 and guidelines and methodologies pertaining to the calculation of an urban water supplier's urban water use objective recommended by the department pursuant to Section 10609.16.

(f) The department shall determine if outdoor water use standards should be reduced from the standards within the version of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations that reflects existing levels of water use efficiency for areas representative of all communities throughout the state. In its determination, the department shall not propose, or require, that: (1) outdoor water use standards be reduced more than 10 percent from the applicable version of the Model Water Efficient Landscape Ordinance; or (2) applicable evapotranspiration rates for landscapes be reduced to less than 0.55 for residential parcels or 0.45 for commercial landscapes. In making its determination under this subdivision, the department shall complete, and rely upon, a statistically valid study of outdoor water use throughout the state with a sample

size sufficient to depict statewide variations in such water use. The department's study also shall consider the quantity of irrigation to necessary to maintain the health of the existing landscapes.

#### **10609.4.**

- (a) The standard for indoor residential water use shall be ~~\_\_\_\_\_~~55 gallons per capita daily.
- (b) The department, ~~in coordination with the board, may~~ shall conduct necessary studies and investigations to recommend to the Legislature a standard for indoor residential water use that more appropriately reflects ~~best practices~~ existing levels of water use efficiency for indoor residential water use than the standard described in subdivision (a). A recommendation pursuant to this subdivision, if there is one, shall be made to the chairpersons of the relevant policy committees of each house of the Legislature by January 1, 2020, and shall include information necessary to support the recommended standard.
- (c) In developing recommendations under subdivision (b), the department shall do all of the following:
- (1) Complete and rely upon a statistically valid study of indoor water use throughout the state with a sample size sufficient to depict statewide variations in such water use;
  - (2) Take into consideration plumbing standards for different aged housing stock and population per household; and
  - (3) Identify variances that consider unique circumstances including, but not limited to, use of evaporative coolers, fluctuations in seasonal populations, and landscape areas irrigated with recycled water having high levels of total dissolved solids.

#### **10609.6.**

- (a) (1) The department, in coordination with the board, shall conduct necessary studies and investigations and recommend, no later than October 1, 2020, standards for outdoor residential use for adoption by the board in accordance with this chapter.
- (2) (A) The standards shall incorporate the relevant principles of the model water efficient landscape ordinance adopted by the department pursuant to the Water Conservation in Landscaping Act (Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code).
- (B) The standards shall apply to irrigable lands.
- (C) The standards shall include provisions for swimming pools, spas, and other water features.
- (b) The department shall, by January 1, 2020, provide each urban retail water supplier with data regarding the area of residential irrigable lands in a manner that can reasonably be applied to the standards adopted pursuant to this section.
- (c) The department shall not recommend standards pursuant to this section until it has conducted pilot projects or studies, or some combination of the two, to ensure that the data provided to local agencies are reasonably accurate for the data's intended uses.
- (d) As part of the report to the appropriate policy committees of the Legislature required by subdivision (b) of Section 10609.2, the director of the department and the chairperson of the board shall report on the feasibility of using remote sensing and other technologies used to obtain the data to be provided under subdivision (b) of this Section.

#### **10609.18.**

(a) The department and the board shall solicit broad public participation from stakeholders and other interested persons in the development of the standards and the adoption of regulations pursuant to this chapter.

(b) Prior to adopting any standards or regulations under this chapter, the department and the board shall prepare and certify an environmental-review document that analyzes the potential environmental impacts of the proposed standards or regulations and is consistent with subdivision (d)(3) of Public Resources Code section (d)(3) and Section 15252 of Title 14 of the California Code of Regulations, as that Section 15252 existed as of September 1, 2017. The department shall be the lead agency for the preparation of any such environmental-review documents, unless the department and the board agree otherwise in writing. For purposes of this subdivision (b), the term "lead agency" shall have the meaning stated in Section 21067 of the Public Resources Code. If the lead agency under this subdivision (b) determines that it will not be possible to complete the required environmental-review document by a time that allows for the deadlines established by this Chapter to be met, then that agency shall promptly report that fact to the appropriate policy committees of both houses of the Legislature and the deadlines established by this Chapter shall be extended by an amount of time equal to the time after June 30, 2021 that the lead agency requires to complete and certify that environmental-review document.

#### **10609.20.**

(a) Each urban retail water supplier shall calculate its urban water use objective no later than July 1, 2022, and by July 1 every year thereafter. The department shall provide verifiable remote sensing data to urban retail water suppliers agencies to calculate this target by March 1, 2022 and by March 1 every year thereafter.

(b) The calculation shall be based on the urban retail water supplier's water use conditions for the previous calendar year.

(c) Each urban water supplier's urban water use objective shall be composed of the following:

- (1) Aggregate estimated efficient indoor residential water use.
- (2) Aggregate estimated efficient outdoor residential water use.
- (3) Aggregate estimated efficient outdoor irrigation of landscape areas with dedicated irrigation meters in connection with CII water use.
- (4) Aggregate estimated efficient water losses.
- (5) Aggregate estimated water use in accordance with variances, as appropriate.

(d) (1) The calculation of the urban water use objective shall be made using landscape area and other data provided by the department and pursuant to the standards, guidelines, and methodologies adopted by the board.

(2) Notwithstanding paragraph (1), an urban retail water supplier may use alternative data in calculating the urban water use objective if the supplier demonstrates that the alternative data are equivalent, or superior, in quality and accuracy to the data provided by the department. The department may provide technical assistance to an urban retail water supplier in evaluating whether the alternative data are appropriate for use in calculating the supplier's urban water use objective.

#### **10609.32.**

It is the intent of the Legislature that the chairperson of the board and the director of the department appear before the appropriate policy committees of both houses of the Legislature on

or around January 1, 2025, and report on the implementation of urban water conservation standards and water use reporting pursuant to this chapter. It is the intent of the Legislature that the topics to be covered include all of the following:

(a) The rate at which urban retail water users are complying with the standards, and factors that might facilitate or impede their compliance.

(b) What enforcement actions have been taken, if any.

(c) The accuracy of the data and estimates being used to calculate urban water use objectives.

(d) Indications of the economic impacts, if any, of the implementation of this chapter on urban water users, including CII water users.

(e) An assessment of how implementing this chapter is affecting the efficiency of statewide urban water use.

(f) The urban water conservation standards' impacts, if any, related to stress or damage to urban tree canopies and proposals on mitigating those impacts.

**SEC. 42.**

*Section 10656 of the Water Code is amended to read:*

**10656.**

An urban water supplier that does not prepare, adopt, and submit its urban water management plan to the department in accordance with this part ~~that does not prepare, adopt, and submit its urban water management plan to the department in accordance with this part, is ineligible to receive funding pursuant to Division 24 (commencing with Section 78500) or Division 26 (commencing with Section 79000), or receive drought assistance from the state until the urban water management plan is submitted pursuant to this article. is not eligible for a water grant or loan awarded or administered by the state.~~

**SEC. 43.**

*Section 10657 is added to the Water Code, to read:*

**10657.**

The department may adopt regulations regarding the definitions of water, water use, and reporting periods, and may adopt any other regulations ~~deemed necessary or desirable to implement this part.~~ In developing regulations pursuant to this section, the department shall solicit broad public participation from stakeholders and other interested persons.