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AB-2062 State highways: landscaping. (2017-2018)

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Assembly Bill No. 2062

CHAPTER 165

An act to amend Section 92.3 of the Streets and Highways Code, relating to state highways.

[Approved by Governor August 20, 2018. Filed with Secretary of State August 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2062, Maienschein. State highways: landscaping.

Existing law provides that the Department of Transportation has full possession and control of all state highways and associated property, and sets forth the powers and duties of the department with respect to the operation, maintenance, and improvement of state highways. Existing law authorizes the department to enter into an agreement to accept funds, materials, equipment, or services from any person for maintenance or roadside enhancement of a section of a state highway. Existing law requires the department to discontinue further water intensive freeway landscaping and to use drought resistant landscaping whenever feasible, taking into consideration specified factors.

This bill would require planting projects undertaken or approved by the department to include, when appropriate and consistent with integrated pest management strategies, California native wildflowers and native and climate-appropriate vegetation as an integral and permanent part of the planting design, with priority given to those species of wildflower and native and climate-appropriate vegetation that will help rebuild pollinator populations.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 92.3 of the Streets and Highways Code is amended to read:

92.3. (a) The department shall do both of the following:

- (1) Discontinue further water intensive freeway landscaping and use drought resistant landscaping whenever feasible, taking into consideration such factors as erosion control and fire retardant needs.
- (2) Eliminate any dependency on imported water for landscaping as soon as practicable.

(b) The department shall require the use of recycled water for the irrigation of freeway landscaping when it finds and determines that all of the following conditions exist:

- (1) The recycled water is of adequate quality and is available in adequate quantity for the proposed use.

(2) The proposed use of the recycled water is approved by the California regional water quality control board having jurisdiction.

(3) There is a direct benefit to the state highway program for the proposed use of recycled water.

(4) The recycled water is supplied by a local public agency or water public utility able to contract for delivery of water and the installation, maintenance, and repair of facilities to deliver the water.

(5) The installation of the water delivery facilities does not unreasonably increase any hazard to vehicles on the freeway or create unreasonable problems of highway maintenance and repair.

(c) In cooperation with local public agencies and water public utilities, the department shall permit local public agencies and water public utilities to place transmission lines for recycled water in freeway rights-of-way for use by the local public agencies and water public utilities to transmit recycled water to others, when to do so will promote a beneficial use of recycled water and that transmission does not unreasonably interfere with use of the freeway or unreasonably increase any hazard to vehicles on the freeway, subject to paragraphs (1) to (5), inclusive, of subdivision (b) and the following additional requirements:

(1) The local public agency or water public utility holds the department harmless for any liability caused by a disruption of service to other users of the recycled water and will defend the department in any resulting legal action and pay any damages awarded as a result of that disruption.

(2) The department, in cooperation with the local public agency or water public utility, may temporarily interrupt service in order to add to or modify its facilities without liability, as specified in paragraph (1).

(3) The local public agency or water public utility obtains and furnishes the department an agreement by all other users of recycled water from the transmission system holding the department harmless for any disruption in service.

(4) The local public agency or water public utility has furnished the department a list of other recycled water users and information on any backup system or other source of water available for use in case of a service disruption.

(5) The local public agency is responsible for the initial cost or any relocation cost of the recycled water transmission lines for service to other users in the right-of-way and waives its rights to require the department to pay the relocation costs pursuant to Sections 702 and 704.

(6) The local public agency or water public utility maintains the water transmission system subject to reasonable access for maintenance purposes to be negotiated between the department and the local public agency or water public utility.

(7) The department has first priority with respect to the recycled water supply contracted for by the department.

(8) The local public agency or water public utility installs an automatic control system which will allow the water transmission system to be shut down in case of an emergency. The department shall have access to all parts of the transmission system for purposes of the agreement.

(9) All transmission lines are placed underground and as close as possible to the freeway right-of-way boundary or at other locations authorized by the department.

(10) The plans and specifications for the recycled water transmission facilities have been approved by the department prior to construction.

(d) When appropriate and consistent with integrated pest management strategies as defined in subdivision (d) of Section 14717 of the Government Code, planting projects undertaken or approved by the department shall include California native wildflowers and native and climate-appropriate vegetation as an integral and permanent part of the planting design, with priority given to those species of wildflowers and native and climate-appropriate vegetation that will help rebuild pollinator populations.

(e) As used in this section:

(1) "Local public agency" means any local public agency that transmits or supplies recycled water to others.

(2) "Water public utility" means any privately owned water corporation that is subject to the jurisdiction and control of the Public Utilities Commission.