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**SB-966 Onsite treated nonpotable water systems.** (2017-2018)

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**Senate Bill No. 966**

**CHAPTER 890**

An act to add Article 8 (commencing with Section 13558) to Chapter 7 of Division 7 of the Water Code, relating to water quality.

[ Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 966, Wiener. Onsite treated nonpotable water systems.

Existing law requires the State Water Resources Control Board to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health.

This bill would, on or before December 1, 2022, require the state board, in consultation with the California Building Standards Commission and the Department of Housing and Community Development, to adopt regulations for risk-based water quality standards for the onsite treatment and reuse of nonpotable water, as provided. The bill would authorize the state board to contract with public or private entities regarding the content of the standards. The bill would require a local jurisdiction, as defined, that elects to establish a program for onsite treated nonpotable water systems to, among other things, adopt, through ordinance, a local program that includes the risk-based water quality standards established by the state board. The bill would, on or before December 1, 2023, require the department, in consultation with the state board, to develop and propose for adoption any necessary corresponding building standards to support the risk-based water quality standards established by the state board. The bill would prohibit an onsite treated nonpotable water system from being installed except under a program established by a local jurisdiction in compliance with the bill's provisions.

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

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

**SECTION 1.** Article 8 (commencing with Section 13558) is added to Chapter 7 of Division 7 of the Water Code, to read:

**Article 8. Water Quality Criteria for Onsite Treated Nonpotable Water Systems**

**13558.** (a) On or before December 1, 2022, the state board, in consultation with the California Building Standards Commission and the Department of Housing and Community Development, shall adopt regulations for risk-based water quality standards for the onsite treatment and reuse of nonpotable water for nonpotable end uses in multifamily residential, commercial, and mixed-use buildings. The state board shall address in those regulations, at a minimum, all of the following:

- (1) Risk-based log reduction targets for the removal of pathogens such as enteric viruses, parasitic protozoa, and enteric bacteria for nonpotable water sources, graywater, rainwater, stormwater, and blackwater, and nonpotable end uses, toilet and

urinal flushing, clothes washing, irrigation, and dust suppression.

(2) Water quality monitoring requirements.

(3) Reporting requirements for the water quality monitoring results.

(4) Notification and public information requirements.

(5) Cross-connection controls.

(b) A local jurisdiction that elects to establish a program for onsite treated nonpotable water systems shall do all of the following:

(1) (A) Adopt a local program through a local ordinance that includes the risk-based water quality standards established by the state board.

(B) (i) A local jurisdiction that does not provide water service or sewer service shall consult with a water service provider or sewer service provider, respectively, that provides water service or sewer service within the boundaries of the jurisdiction before adopting, amending, or repealing an ordinance that institutes a program for onsite treated nonpotable water system installation and regulation. In consulting with a water service provider or sewer service provider, a local jurisdiction shall give the water service provider or sewer service provider the opportunity to demonstrate that the proposed ordinance could result in a significant adverse impact to any of the following:

(I) Operations, maintenance, or management of the existing sewer collection or treatment system due to reduced flows.

(II) Existing or planned centralized recycled water or potable reuse facilities or projects due to reduced flows.

(III) Receiving waters.

(ii) If a water service provider or sewer service provider demonstrates to a local jurisdiction a significant risk of a significant adverse impact listed in clause (i), the local jurisdiction shall avoid the impacts or mitigate the impacts to a point where no significant impact on the system, facilities, projects, or receiving waters would occur before adopting the proposed ordinance.

(2) Establish onsite treated nonpotable water system design criteria, permitting, cross-connection control, and enforcement procedures.

(3) Provide an annual report to the state board that includes the number, location, and description of permits issued for new and replacement onsite treated nonpotable water systems, the types and quantity of nonpotable water for nonpotable end uses, water quality monitoring data, and a summary of any violations and corrective actions taken in the local jurisdiction's program.

(4) Terminate the operation of, and modify to render inoperable, any onsite treated nonpotable water system at the direction of the state board.

(5) (A) Implement its program for the protection of public health.

(B) (1) If a local jurisdiction determines that it can no longer effectively implement its program while protecting public health, or if it decides to terminate its program, the local jurisdiction shall rescind its issued permits and require all installed systems to be rendered inoperable prior to the cessation of its program.

(2) Before a local jurisdiction terminates its program pursuant to this subparagraph, it shall publicly state the financial or logistical hardship that justifies termination of the program and provide the public with an opportunity for comment.

(C) The state board shall not administer a local jurisdiction's program in place of a local jurisdiction that is unable to effectively implement its program while protecting public health or that decides to terminate its program.

(c) The standards established pursuant to subdivision (a) shall not address untreated graywater systems that are used exclusively for subsurface irrigation that are regulated by Chapter 15 (commencing with Section 1501.0) of the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations).

(d) The standards established pursuant to subdivision (a) shall not address untreated rainwater systems that are used exclusively for surface, subsurface, or drip irrigation that are regulated by Chapter 16 (commencing with Section 1601.0) of the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations).

(e) (1) Notwithstanding any other law, the standards established pursuant to subdivision (a) shall not be considered building standards and shall be treated as program regulations promulgated pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) On or before December 1, 2023, the Department of Housing and Community Development, in consultation with the state board, shall develop and propose for adoption any necessary corresponding building standards to support the risk-based water quality standards established by the state board pursuant to subdivision (a).

(f) The standards established pursuant to subdivision (a) shall be effective commencing on the date on which the regulations are approved and final. An onsite treated nonpotable water system in operation before the effective date of the regulations shall comply with the regulations within two years of the effective date. If the permitting local jurisdiction finds that the permittee is working to come into compliance with the regulations, but due to extenuating circumstances related to the engineering, repair, or replacement of the system a further extension is warranted, the local jurisdiction may grant an extension to comply with the regulations not to exceed five years after the effective date.

(g) The state board may contract with public or private entities to advise the state board on public health issues and scientific and technical matters regarding the content of the standards established pursuant to subdivision (a).

(h) For purposes of this section, "local jurisdiction" means a city, county, or city and county.

**13558.1.** (a) An onsite treated nonpotable water system shall not be installed except under a program established in compliance with subdivision (b) of Section 13558.

(b) This section does not apply to untreated graywater systems that are used exclusively for subsurface irrigation that are regulated by Chapter 15 (commencing with Section 1501.0) of the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations).

(c) This section does not apply to untreated rainwater systems that are used exclusively for surface, subsurface, or drip irrigation that are regulated by Chapter 16 (commencing with Section 1601.0) of the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations).