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AB-1414 Urban retail water suppliers: reporting. (2019-2020)

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Assembly Bill No. 1414

CHAPTER 239

An act to amend Sections 10608.34, 10609.20, 10609.22, 10609.24, 10609.26, 10621, 10631, and 10632.1 of, and to add Section 10609.25 to, the Water Code, relating to water.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, Friedman. Urban retail water suppliers: reporting.

(1) Existing law requires the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. Existing law requires each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. Existing law requires each urban retail water supplier, on or before October 1, 2017, and on or before October 1 of each year thereafter, to submit a completed and validated water loss audit report for the previous calendar year or previous fiscal year as prescribed by rules adopted by the Department of Water Resources.

This bill would require each urban retail water supplier to submit a completed and validated water loss audit report as prescribed by the department on or before October 1 of each year until October 1, 2023, if reporting on a calendar year basis, and on or before January 1 of each year until January 1, 2024, if reporting on a fiscal year basis. The bill would require on or before January 1, 2024, and on or before January 1 of each year thereafter, each urban retail water supplier to submit a completed and validated water loss audit report for the previous calendar year or previous fiscal year as part of an existing report relating to its urban water use.

(2) Existing law requires an urban retail water supplier to calculate an urban water use objective no later than November 1, 2023, and by November 1 every year thereafter, and its actual urban water use by those same dates. Existing law requires an urban retail water supplier to submit a report to the department relating to its urban water use by those dates.

This bill would revise these dates to January 1, 2024, and by January 1 every year thereafter.

(3) Existing law, on and after November 1, 2023, authorizes the State Water Resources Control Board to issue informational orders pertaining to water production, water use, and water conservation to an urban retail water supplier that does not meet its urban water use objective.

This bill would instead authorize the board to issue an informational order pertaining to water production, water use, and water conservation to an urban retail water supplier that does not meet its urban water use objective on and after January 1, 2024.

(4) Existing law, the Urban Water Management Planning Act, requires every public and private urban water supplier that directly or indirectly provides water for municipal purposes to prepare and adopt an urban water management plan. The act requires an urban water management plan to be updated on or before July 1, in years ending in 6 and 1, incorporating updated and new information from the 5 years preceding the plan update. The act requires each urban retail water supplier to adopt and submit to

the department by January 1, 2024, a supplement to the adopted 2020 plan that includes a narrative describing the water demand management measures that the supplier plans to implement.

The bill would recast the urban water management narrative requirement to instead require, as part of the first annual report the urban retail water supplier submits to the department, a narrative that describes the water demand management measures that the supplier plans to implement to achieve its urban water use objective by January 1, 2027.

(5) The act requires an urban water supplier to conduct an annual water supply and demand assessment and submit an annual shortage assessment report to the department consistent with the supplier's water shortage contingency plan by June 1 of each year.

This bill would revise that deadline to July 1 of each year.

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

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

SECTION 1. Section 10608.34 of the Water Code is amended to read:

10608.34. (a) (1) On or before January 1, 2017, the department shall adopt rules for all of the following:

(A) The conduct of standardized water loss audits by urban retail water suppliers in accordance with the method adopted by the American Water Works Association in the third edition of Water Audits and Loss Control Programs, Manual M36 and in the Free Water Audit Software, version 5.0.

(B) The process for validating a water loss audit report prior to submitting the report to the department. For the purposes of this section, "validating" is a process whereby an urban retail water supplier uses a technical expert to confirm the basis of all data entries in the urban retail water supplier's water loss audit report and to appropriately characterize the quality of the reported data. The validation process shall follow the principles and terminology laid out by the American Water Works Association in the third edition of Water Audits and Loss Control Programs, Manual M36 and in the Free Water Audit Software, version 5.0. A validated water loss audit report shall include the name and technical qualifications of the person engaged for validation.

(C) The technical qualifications required of a person to engage in validation, as described in subparagraph (B).

(D) The certification requirements for a person selected by an urban retail water supplier to provide validation of its own water loss audit report.

(E) The method of submitting a water loss audit report to the department.

(2) The department shall update rules adopted pursuant to paragraph (1) no later than six months after the release of subsequent editions of the American Water Works Association's Water Audits and Loss Control Programs, Manual M36. Except as provided by the department, until the department adopts updated rules pursuant to this paragraph, an urban retail water supplier may rely upon a subsequent edition of the American Water Works Association's Water Audits and Loss Control Programs, Manual M36 or the Free Water Audit Software.

(b) (1) On or before October 1 of each year until October 1, 2023, each urban retail water supplier reporting on a calendar year basis shall submit a completed and validated water loss audit report for the previous calendar year or the previous fiscal year as prescribed by the department pursuant to subdivision (a).

(2) On or before January 1 of each year until January 1, 2024, each urban retail water supplier reporting on a fiscal year basis shall submit a completed and validated water loss audit report for the previous fiscal year as prescribed by the department pursuant to subdivision (a).

(3) On or before January 1, 2024, and on or before January 1 of each year thereafter, each urban retail water supplier shall submit a completed and validated water loss audit report for the previous calendar year or previous fiscal year as part of the report submitted to the department pursuant to subdivision (a) of Section 10609.24 and as prescribed by the department pursuant to subdivision (a).

(4) Water loss audit reports submitted on or before October 1, 2017, may be completed and validated with assistance as described in subdivision (c).

(c) Using funds available for the 2016–17 fiscal year, the board shall contribute up to four hundred thousand dollars (\$400,000) towards procuring water loss audit report validation assistance for urban retail water suppliers.

(d) Each water loss audit report submitted to the department shall be accompanied by information, in a form specified by the department, identifying steps taken in the preceding year to increase the validity of data entered into the final audit, reduce the volume of apparent losses, and reduce the volume of real losses.

(e) At least one of the following employees of an urban retail water supplier shall attest to each water loss audit report submitted to the department:

(1) The chief financial officer.

(2) The chief engineer.

(3) The general manager.

(f) The department shall deem incomplete and return to the urban retail water supplier any final water loss audit report found by the department to be incomplete, not validated, unattested, or incongruent with known characteristics of water system operations. A water supplier shall resubmit a completed water loss audit report within 90 days of an audit being returned by the department.

(g) The department shall post all validated water loss audit reports on its internet website in a manner that allows for comparisons across water suppliers. The department shall make the validated water loss audit reports available for public viewing in a timely manner after their receipt.

(h) Using available funds, the department shall provide technical assistance to guide urban retail water suppliers' water loss detection programs, including, but not limited to, metering techniques, pressure management techniques, condition-based assessment techniques for transmission and distribution pipelines, and utilization of portable and permanent water loss detection devices.

(i) No earlier than January 1, 2019, and no later than July 1, 2020, the board shall adopt rules requiring urban retail water suppliers to meet performance standards for the volume of water losses. In adopting these rules, the board shall employ full life-cycle cost accounting to evaluate the costs of meeting the performance standards. The board may consider establishing a minimum allowable water loss threshold that, if reached and maintained by an urban water supplier, would exempt the urban water supplier from further water loss reduction requirements.

SEC. 2. Section 10609.20 of the Water Code is amended to read:

10609.20. (a) Each urban retail water supplier shall calculate its urban water use objective no later than January 1, 2024, and by January 1 every year thereafter.

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

(c) Each urban water supplier's urban water use objective shall be composed of the sum 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 or equivalent technology 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) An urban retail water supplier that delivers water from a groundwater basin, reservoir, or other source that is augmented by potable reuse water may adjust its urban water use objective by a bonus incentive calculated pursuant to this subdivision.

(2) The water use objective bonus incentive shall be the volume of its potable reuse delivered to residential water users and to landscape areas with dedicated irrigation meters in connection with CII water use, on an acre-foot basis.

(3) The bonus incentive pursuant to paragraph (1) shall be limited in accordance with one of the following:

(A) The bonus incentive shall not exceed 15 percent of the urban water supplier's water use objective for any potable reuse water produced at an existing facility.

(B) The bonus incentive shall not exceed 10 percent of the urban water supplier's water use objective for any potable reuse water produced at any facility that is not an existing facility.

(4) For purposes of this subdivision, "existing facility" means a facility that meets all of the following:

(A) The facility has a certified environmental impact report, mitigated negative declaration, or negative declaration on or before January 1, 2019.

(B) The facility begins producing and delivering potable reuse water on or before January 1, 2022.

(C) The facility uses microfiltration and reverse osmosis technologies to produce the potable reuse water.

(e) (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. The department shall provide data to the urban water supplier at a level of detail sufficient to allow the urban water supplier to verify its accuracy at the parcel level.

(2) Notwithstanding paragraph (1), an urban retail water supplier may use alternative data in calculating the urban water use objective if the supplier demonstrates to the department 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.

SEC. 3. Section 10609.22 of the Water Code is amended to read:

10609.22. (a) An urban retail water supplier shall calculate its actual urban water use no later than January 1, 2024, and by January 1 every year thereafter.

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

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

(1) Aggregate residential water use.

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

(3) Aggregate water losses.

SEC. 4. Section 10609.24 of the Water Code is amended to read:

10609.24. (a) An urban retail water supplier shall submit a report to the department no later than January 1, 2024, and by January 1 every year thereafter. The report shall include all of the following:

(1) The urban water use objective calculated pursuant to Section 10609.20 along with relevant supporting data.

(2) The actual urban water use calculated pursuant to Section 10609.22 along with relevant supporting data.

(3) Documentation of the implementation of the performance measures for CII water use.

(4) A description of the progress made towards meeting the urban water use objective.

(5) The validated water loss audit report conducted pursuant to Section 10608.34.

(b) The department shall post the reports and information on its internet website.

(c) The board may issue an information order or conservation order to, or impose civil liability on, an entity or individual for failure to submit a report required by this section.

SEC. 5. Section 10609.25 is added to the Water Code, to read:

10609.25. As part of the first report submitted to the department by an urban retail water supplier no later than January 1, 2024, pursuant to subdivision (a) of Section 10609.24, each urban retail water supplier shall provide a narrative that describes the water demand management measures that the supplier plans to implement to achieve its urban water use objective by January 1, 2027.

SEC. 6. Section 10609.26 of the Water Code is amended to read:

10609.26. (a) (1) On and after January 1, 2024, the board may issue informational orders pertaining to water production, water use, and water conservation to an urban retail water supplier that does not meet its urban water use objective required by this

chapter. Informational orders are intended to obtain information on supplier activities, water production, and conservation efforts in order to identify technical assistance needs and assist urban water suppliers in meeting their urban water use objectives.

(2) In determining whether to issue an informational order, the board shall consider the degree to which the urban retail water supplier is not meeting its urban water use objective, information provided in the report required by Section 10609.24, and actions the urban retail water supplier has implemented or will implement in order to help meet the urban water use objective.

(3) The board shall share information received pursuant to this subdivision with the department.

(4) An urban water supplier may request technical assistance from the department. The technical assistance may, to the extent available, include guidance documents, tools, and data.

(b) On and after January 1, 2025, the board may issue a written notice to an urban retail water supplier that does not meet its urban water use objective required by this chapter. The written notice may warn the urban retail water supplier that it is not meeting its urban water use objective described in Section 10609.20 and is not making adequate progress in meeting the urban water use objective, and may request that the urban retail water supplier address areas of concern in its next annual report required by Section 10609.24. In deciding whether to issue a written notice, the board may consider whether the urban retail water supplier has received an informational order, the degree to which the urban retail water supplier is not meeting its urban water use objective, information provided in the report required by Section 10609.24, and actions the urban retail water supplier has implemented or will implement in order to help meet its urban water use objective.

(c) (1) On and after January 1, 2026, the board may issue a conservation order to an urban retail water supplier that does not meet its urban water use objective. A conservation order may consist of, but is not limited to, referral to the department for technical assistance, requirements for education and outreach, requirements for local enforcement, and other efforts to assist urban retail water suppliers in meeting their urban water use objective.

(2) In issuing a conservation order, the board shall identify specific deficiencies in an urban retail water supplier's progress towards meeting its urban water use objective, and identify specific actions to address the deficiencies.

(3) The board may request that the department provide an urban retail water supplier with technical assistance to support the urban retail water supplier's actions to remedy the deficiencies.

(d) A conservation order issued in accordance with this chapter may include requiring actions intended to increase water-use efficiency, but shall not curtail or otherwise limit the exercise of a water right, nor shall it require the imposition of civil liability pursuant to Section 377.

SEC. 7. Section 10621 of the Water Code is amended to read:

10621. (a) Each urban water supplier shall update its plan at least once every five years on or before July 1, in years ending in six and one, incorporating updated and new information from the five years preceding each update.

(b) Every urban water supplier required to prepare a plan pursuant to this part shall, at least 60 days before the public hearing on the plan required by Section 10642, notify any city or county within which the supplier provides water supplies that the urban water supplier will be reviewing the plan and considering amendments or changes to the plan. The urban water supplier may consult with, and obtain comments from, any city or county that receives notice pursuant to this subdivision.

(c) An urban water supplier regulated by the Public Utilities Commission shall include its most recent plan and water shortage contingency plan as part of the supplier's general rate case filings.

(d) The amendments to, or changes in, the plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

(e) Each urban water supplier shall update and submit its 2015 plan to the department by July 1, 2016.

(f) Each urban water supplier shall update and submit its 2020 plan to the department by July 1, 2021.

SEC. 8. Section 10631 of the Water Code is amended to read:

10631. A plan shall be adopted in accordance with this chapter that shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other social, economic, and demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available. The description shall include the current and projected land uses within the existing or anticipated service area affecting the supplier's water management planning. Urban

water suppliers shall coordinate with local or regional land use authorities to determine the most appropriate land use information, including, where appropriate, land use information obtained from local or regional land use authorities, as developed pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments described in subdivision (a), providing supporting and related information, including all of the following:

(1) A detailed discussion of anticipated supply availability under a normal water year, single dry year, and droughts lasting at least five years, as well as more frequent and severe periods of drought, as described in the drought risk assessment. For each source of water supply, consider any information pertinent to the reliability analysis conducted pursuant to Section 10635, including changes in supply due to climate change.

(2) When multiple sources of water supply are identified, a description of the management of each supply in correlation with the other identified supplies.

(3) For any planned sources of water supply, a description of the measures that are being undertaken to acquire and develop those water supplies.

(4) If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information:

(A) The current version of any groundwater sustainability plan or alternative adopted pursuant to Part 2.74 (commencing with Section 10720), any groundwater management plan adopted by the urban water supplier, including plans adopted pursuant to Part 2.75 (commencing with Section 10750), or any other specific authorization for groundwater management for basins underlying the urban water supplier's service area.

(B) A description of any groundwater basin or basins from which the urban water supplier pumps groundwater. For basins that a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the urban water supplier has the legal right to pump under the order or decree. For a basin that has not been adjudicated, information as to whether the department has identified the basin as a high- or medium-priority basin in the most current official departmental bulletin that characterizes the condition of the groundwater basin, and a detailed description of the efforts being undertaken by the urban water supplier to coordinate with groundwater sustainability agencies or groundwater management agencies listed in subdivision (c) of Section 10723 to maintain or achieve sustainable groundwater conditions in accordance with a groundwater sustainability plan or alternative adopted pursuant to Part 2.74 (commencing with Section 10720).

(C) A detailed description and analysis of the location, amount, and sufficiency of groundwater pumped by the urban water supplier for the past five years. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(D) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the urban water supplier. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(c) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(d) (1) For an urban retail water supplier, quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, based upon information developed pursuant to subdivision (a), identifying the uses among water use sectors, including, but not necessarily limited to, all of the following:

(A) Single-family residential.

(B) Multifamily.

(C) Commercial.

(D) Industrial.

(E) Institutional and governmental.

(F) Landscape.

(G) Sales to other agencies.

(H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.

(I) Agricultural.

(J) Distribution system water loss.

(2) The water use projections shall be in the same five-year increments described in subdivision (a).

(3) (A) The distribution system water loss shall be quantified for each of the five years preceding the plan update, in accordance with rules adopted pursuant to Section 10608.34.

(B) The distribution system water loss quantification shall be reported in accordance with a worksheet approved or developed by the department through a public process. The water loss quantification worksheet shall be based on the water system balance methodology developed by the American Water Works Association.

(C) In the plan due July 1, 2021, and in each update thereafter, data shall be included to show whether the urban retail water supplier met the distribution loss standards enacted by the board pursuant to Section 10608.34.

(4) (A) Water use projections, where available, shall display and account for the water savings estimated to result from adopted codes, standards, ordinances, or transportation and land use plans identified by the urban water supplier, as applicable to the service area.

(B) To the extent that an urban water supplier reports the information described in subparagraph (A), an urban water supplier shall do both of the following:

(i) Provide citations of the various codes, standards, ordinances, or transportation and land use plans utilized in making the projections.

(ii) Indicate the extent that the water use projections consider savings from codes, standards, ordinances, or transportation and land use plans. Water use projections that do not account for these water savings shall be noted of that fact.

(e) Provide a description of the supplier's water demand management measures. This description shall include all of the following:

(1) (A) For an urban retail water supplier, as defined in Section 10608.12, a narrative description that addresses the nature and extent of each water demand management measure implemented over the past five years. The narrative shall describe the water demand management measures that the supplier plans to implement to achieve its water use targets pursuant to Section 10608.20.

(B) The narrative pursuant to this paragraph shall include descriptions of the following water demand management measures:

(i) Water waste prevention ordinances.

(ii) Metering.

(iii) Conservation pricing.

(iv) Public education and outreach.

(v) Programs to assess and manage distribution system real loss.

(vi) Water conservation program coordination and staffing support.

(vii) Other demand management measures that have a significant impact on water use as measured in gallons per capita per day, including innovative measures, if implemented.

(2) For an urban wholesale water supplier, as defined in Section 10608.12, a narrative description of the items in clauses (ii), (iv), (vi), and (vii) of subparagraph (B) of paragraph (1), and a narrative description of its distribution system asset management and wholesale supplier assistance programs.

(f) Include a description of all water supply projects and water supply programs that may be undertaken by the urban water supplier to meet the total projected water use, as established pursuant to subdivision (a) of Section 10635. The urban water supplier shall include a detailed description of expected future projects and programs that the urban water supplier may implement to increase the amount of the water supply available to the urban water supplier in normal and single-dry water years and for a period of drought lasting five consecutive water years. The description shall identify specific projects and include a

description of the increase in water supply that is expected to be available from each project. The description shall include an estimate with regard to the implementation timeline for each project or program.

(g) Describe the opportunities for development of desalinated water, including, but not limited to, ocean water, brackish water, and groundwater, as a long-term supply.

(h) An urban water supplier that relies upon a wholesale agency for a source of water shall provide the wholesale agency with water use projections from that agency for that source of water in five-year increments to 20 years or as far as data is available. The wholesale agency shall provide information to the urban water supplier for inclusion in the urban water supplier's plan that identifies and quantifies, to the extent practicable, the existing and planned sources of water as required by subdivision (b), available from the wholesale agency to the urban water supplier over the same five-year increments, and during various water-year types in accordance with subdivision (f). An urban water supplier may rely upon water supply information provided by the wholesale agency in fulfilling the plan informational requirements of subdivisions (b) and (f).

SEC. 9. Section 10632.1 of the Water Code is amended to read:

10632.1. An urban water supplier shall conduct an annual water supply and demand assessment pursuant to subdivision (a) of Section 10632 and, on or before July 1 of each year, submit an annual water shortage assessment report to the department with information for anticipated shortage, triggered shortage response actions, compliance and enforcement actions, and communication actions consistent with the supplier's water shortage contingency plan. An urban water supplier that relies on imported water from the State Water Project or the Bureau of Reclamation shall submit its annual water supply and demand assessment within 14 days of receiving its final allocations, or by July 1 of each year, whichever is later.