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SB-273 Water quality: municipal wastewater agencies. (2021-2022)

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Senate Bill No. 273

CHAPTER 241

An act to add Chapter 11.5 (commencing with Section 13910) to Division 7 of the Water Code, relating to water quality.

[Approved by Governor September 23, 2021. Filed with Secretary of State September 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 273, Hertzberg. Water quality: municipal wastewater agencies.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater by municipalities and industries in accordance with the National Pollutant Discharge Elimination System permit program and the Porter-Cologne Water Quality Control Act. Existing law requires regulated municipalities and industries to obtain a stormwater permit.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified.

This bill would authorize a municipal wastewater agency, as defined, to enter into agreements with entities responsible for stormwater management for the purpose of managing stormwater and dry weather runoff, as defined, to acquire, construct, expand, operate, maintain, and provide facilities for specified purposes relating to managing stormwater and dry weather runoff, and to levy taxes, fees, and charges consistent with the municipal wastewater agency's existing authority in order to fund projects undertaken pursuant to the bill. The bill would require the exercise of any new authority granted under the bill to comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The bill would require a municipal wastewater agency that enters into or amends one of these agreements after January 1, 2022, to file a copy of the agreement or amendment with the local agency formation commission in each county where any part of the municipal wastewater agency's territory is located, but would exempt those agreements and amendments from local agency formation commission approval except as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. To the extent this requirement would impose new duties on local agency formation commissions, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Chapter 11.5 (commencing with Section 13910) is added to Division 7 of the Water Code, to read:

CHAPTER 11.5. Municipal Wastewater Agencies

13910. The Legislature finds and declares all of the following:

(a) Fostering regional cooperative efforts to improve water quality and local sustainable water supply is fundamental for developing California's 21st century water portfolio.

(b) Stormwater capture, treatment, and use as a water supply is increasingly viewed as an innovative opportunity to improve water quality where it is viable and economically feasible.

(c) Municipal wastewater agencies have existing infrastructure, capacity, and expertise that could be used to assist in meeting the state's water quality and water supply goals when circumstances allow, while allowing wastewater agencies to still meet their primary goals of meeting water quality requirements for wastewater discharge and avoiding sanitary sewer overflows. However, in some circumstances municipal wastewater agencies may need explicit legislative authority before they can pursue certain types of projects.

(d) In order to promote regional interagency cooperation, improve the quality of the waters of the state, and make efficient use of publicly owned infrastructure, it would be beneficial if municipal wastewater agencies had the authority to enter into voluntary agreements for stormwater projects in the future, where cost effective and regionally suitable.

13911. (a) A municipal wastewater agency may enter into agreements with entities responsible for stormwater management, including, but not limited to, municipal, industrial, and commercial stormwater dischargers subject to this division, for the purpose of managing stormwater and dry weather runoff.

(b) A municipal wastewater agency may acquire, construct, expand, operate, maintain, and provide facilities for any of the following purposes:

(1) The diversion of stormwater and dry weather runoff from the stormwater system to the wastewater collection or treatment system.

(2) The management and treatment of stormwater and dry weather runoff.

(3) The discharge of treated dry weather runoff and stormwater to the stormwater drainage system or receiving waters.

(4) The beneficial reuse of captured dry weather runoff and stormwater.

13912. (a) A municipal wastewater agency may do any of the following:

(1) To the extent permitted by federal law, authorize the discharge of stormwater or dry weather runoff captured at industrial and commercial sites to the wastewater collection or treatment system subject to any requirements that may be imposed by the municipal wastewater agency or public agency that owns and operates the tributary collection system.

(2) In order to carry out the powers granted, and the purposes established, under this chapter, exercise any of the powers otherwise granted to it by law, including, but not limited to, enforcing compliance with local, state, and federal water quality requirements through the implementation of the municipal wastewater agency's industrial pretreatment programs and ensuring that the project or program is consistent with local watershed priorities, obligations, and circumstances.

(3) Levy taxes, fees, and charges consistent with the municipal wastewater agency's existing authority in order to fund projects undertaken pursuant to this chapter.

(b) The exercise of any new authority granted under this chapter is subject to and shall comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(c) (1) If, after January 1, 2022, a municipal wastewater agency enters into a new agreement or amends an agreement pursuant to this chapter, the agency shall, within 30 days after the effective date of the new agreement or amendment, file a copy of the agreement or amendment with the local agency formation commission in each county where any part of the municipal wastewater agency's territory is located.

(2) The local agency formation commission's approval of an agreement or an amendment to an agreement as described in paragraph (1) shall not be required, except as required by subdivision (b).

13913. (a) An agreement, project, or use of authority authorized under this chapter shall be completely voluntary for all participating entities.

(b) Nothing in this chapter shall be construed to interfere with any existing programs or projects, authorities, or obligations for municipal wastewater agencies or stormwater dischargers.

(c) It is the intent of the Legislature in enacting this chapter merely to allow local agencies interested in pursuing the types of projects described in this chapter to proceed without additional legislative changes to their authorizing statutes.

13914. Nothing in this chapter shall be construed to alter or interfere with any of the following:

(a) Existing water rights to water from any source, including any adjudicated rights allocated by a court judgment or order, including any physical solution, rights issued by the state or a state agency, and rights acquired pursuant to any federal or state statute.

(b) Existing water rights law.

(c) Any rights, remedies, or obligations that may exist pursuant to Article 1 (commencing with Section 1200) or Article 1.5 (commencing with Section 1210) of Chapter 1 of Part 2 of Division 2 of this code, Chapter 10 (commencing with Section 1700) of Part 2 of Division 2 of this code, or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

13915. For purposes of this chapter, the following definitions apply:

(a) "Dry weather runoff" has the same meaning as defined in Section 10561.5.

(b) "Local agency" includes, but is not limited to, a city, county, special district, joint powers authority, sanitary district, sanitation district, county sanitation district, community services district, and municipal utility district.

(c) "Municipal wastewater agency" means a local agency that chooses to exercise any authority granted under this chapter.

(d) "Stormwater" has the same meaning as defined in Section 10561.5.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.