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**SB-745 The Drought-Resistant Buildings Act.** (2023-2024)

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Date Published: 10/16/2023 02:00 PM

**Senate Bill No. 745**

**CHAPTER 884**

An act to add Sections 17921.11 and 18940.7 to the Health and Safety Code, and to amend Section 13558 of the Water Code, relating to housing.

[ Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 745, Cortese. The Drought-Resistant Buildings Act.

Existing law, the California Building Standards Law, establishes the California Building Standards Commission within the Department of General Services and sets forth its powers and duties, including approval and adoption of building standards and codification of those standards into the California Building Standards Code. Existing law requires the commission to adopt specific building standards, including standards for graywater, and to publish, or cause to be published, editions of the California Building Standards Code in its entirety once every 3 years. Existing law establishes the Building Standards Administration Special Revolving Fund, and makes the moneys in the fund available, upon appropriation, to state entities to carry out various related provisions, as specified.

This bill would require the department to research, develop, and propose building standards to reduce potable water use in new residential buildings and imposes those duties on the commission with respect to new nonresidential buildings, as specified. The bill would require the commission to perform a review of water efficiency and water reuse standards in the California Buildings Standards Code every 3 years, commencing with the next triennial edition, and update as needed.

Existing law establishes, within the California Environmental Protection Agency, the State Water Resources Control Board for the purposes of orderly and efficient administration of the state's water resources. Existing law requires the board, in consultation with the 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 in multifamily residential, commercial, and mixed-use buildings, as specified. Existing law requires the department, in consultation with the board, to develop and propose for adoption any necessary corresponding building standards to support those risk-based water quality standards by a specified date.

This bill, instead, would require the department, in consultation with the board, to develop and propose the corresponding building standards within 12 months of the board adopting those regulations.

This bill would also make related findings and declarations.

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

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

**SECTION 1.** This act shall be known, and may be cited, as the Drought-Resistant Buildings Act.

**SEC. 2.** The Legislature finds and declares all of the following:

(a) The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent to which they are capable and that the waste, unreasonable use, or unreasonable method of use of water be prevented.

(b) Severe drought conditions have increased in frequency over the last decade, resulting in California's water supplies falling to alarmingly low levels during multiple years.

(c) California's climate is warming and becoming more variable. Rising temperatures are making droughts more intense, and dry years are occurring more frequently. Higher temperatures mean less snowpack, which is the state's largest water reservoir. Scientists project that the average water supply from snowpack will decline to two-thirds of historical levels by 2050. Available water from the Colorado River Basin, which provides drinking water to southern California, is also projected to decline precipitously due to prolonged drought. Hotter and drier weather conditions from climate change are projected to reduce California's overall water supply by up to 10 percent by the year 2040.

(d) Because buildings stay in use for 30 to 100 years before they are replaced, California needs to begin drought proofing its building stock now. Retrofitting buildings to allow for use of alternative nonpotable water sources or to allow for capture and reuse of graywater can be prohibitively expensive. The most efficient way to install water reuse systems in buildings is at the time of construction.

(e) The California Building Standards Code should be updated to reduce the designed potable water demand of new buildings and to minimize the use of potable water for nonpotable uses, taking into consideration the availability of alternate water sources, sizes and types of buildings, impacts on affordable housing, and how to most effectively ready buildings for projected future water shortages.

**SEC. 3.** Section 17921.11 is added to the Health and Safety Code, to read:

**17921.11.** (a) For purposes of this section, "water reuse system" includes both of the following:

(1) A system approved for installation under the California Building Standards Code that uses recycled water, graywater, rainwater, or other nonpotable water sources for nonpotable indoor or outdoor building use, including landscaping, toilet and urinal flushing, floor trap priming, or cooling towers.

(2) A system approved for installation under the California Building Standards Code that captures graywater, rainwater, building foundation water drainage, or other onsite alternative water sources for nonpotable reuse onsite or as part of a multibuilding, district, or campuswide treatment system.

(b) The department shall, commencing with the next triennial edition of the California Building Standards Code (Title 24 of the California Code of Regulations), research, develop, and propose building standards, including voluntary Tier 1 or Tier 2 standards of the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), to reduce potable water use in new residential buildings, including consideration of requiring installation of water reuse systems and consideration of requiring preplumbing of buildings to allow future use of recycled water, onsite treated graywater, or other alternative water sources. In developing these standards, the department shall consider potential impacts on affordable housing, may limit requirements to hotel and motel, multifamily, and market-rate housing, and may limit or exempt the application of standards based on building size, development size, availability or planned availability of recycled water, or as otherwise determined appropriate.

**SEC. 4.** Section 18940.7 is added to the Health and Safety Code, to read:

**18940.7.** (a) For purposes of this section, "water reuse system" includes both of the following:

(1) A system approved for installation under the California Building Standards Code that uses recycled water, graywater, rainwater, or other nonpotable water sources for nonpotable indoor or outdoor building use, including landscaping, toilet and urinal flushing, floor trap priming, or cooling towers.

(2) A system approved for installation under the California Building Standards Code that captures graywater, rainwater, building foundation water drainage, or other onsite alternative water sources for nonpotable reuse onsite or as part of a multibuilding, district, or campuswide treatment system.

(b) The commission shall, commencing with the next triennial edition of the California Building Standards Code (Title 24 of the California Code of Regulations), research, develop, and propose building standards, including voluntary Tier 1 or Tier 2 standards

of the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), to reduce potable water use in new nonresidential buildings, including consideration of requiring installation of water reuse systems and consideration of requiring preplumbing of buildings to allow future use of recycled water, onsite treated graywater, or other alternative water sources. In developing these standards, the commission may limit or exempt the application of standards based on occupancy, building type, building size, development size, availability or planned availability of recycled water, or as otherwise determined appropriate.

(c) The commission shall perform a review of water efficiency and water reuse standards in the California Buildings Standards Code every three years thereafter and update as needed.

(d) In developing and proposing building standards under this section, the commission is authorized to expend funds from the Building Standards Administration Special Revolving Fund, upon appropriation pursuant to Section 18931.7.

**SEC. 5.** Section 13558 of the Water Code is amended to read:

**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) (i) 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.

(ii) 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) Within 12 months of the state board adopting regulations pursuant to subdivision (a), 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.