

AMENDED IN ASSEMBLY MAY 23, 2008

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CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2986

**Introduced by Assembly Member Leno
(Coauthor: Assembly Member Huffman)**

February 22, 2008

An act to amend Section 75050.2 of the Public Resources Code, and to add Chapter 18 (commencing with Section 14080) to Division 7 of the Water Code, relating to water quality, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2986, as amended, Leno. Waste discharge requirements.

(1) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for publicly owned treatment works and other dischargers in accordance with the Porter-Cologne Water Quality Control Act (state act) and the federal Clean Water Act. Existing law, commencing the year in which funding is provided, requires the state board to develop a uniform overflow event report form to be used by the system owner or operator to report sanitary sewer system overflows. Existing law, commencing the year in which funding is provided, requires a database on sanitary sewer system overflows and spills to be developed and made available to the public.

This bill, by January 1, 2010, would require the state board and each regional board to post on their respective Internet Web sites, at a minimum, copies of specified water quality documents maintained in their files and generated on or after January 1, 2009. The state board and each regional board would be required to post on their respective Internet Web sites additional water quality documents generated between January 1, 2006, and December 31, 2008, if they have electronic copies of those documents.

The bill would require the state board, commencing January 1, 2011, to issue annually a letter grade, as specified, for each separate sanitary sewer system, ~~each~~ sewage treatment plant, ~~each~~ combined sewer system, and ~~each~~ combined sewer system treatment plant in the state *that is subject to waste discharge requirements* in accordance with letter grading methodologies that the state board would be required to establish. The state board would be required, by July 1, 2009, to establish a methodology for measuring “peaking factors,” as defined, and to establish, as necessary, monitoring and reporting requirements to measure peaking factors.

The bill would require the state board, by July 1, 2010, and by July 1 of each year thereafter, to establish a list of all sewage treatment plants that treat waste collected from separate sanitary sewer systems and for which the state board makes specified findings relating to wet weather peak flows. A satellite sewer system, as defined, that discharges sewage to a sewage treatment plant that has been placed on that list would be required to install and operate flow meters *or employ another flow monitoring methodology approved by the state board or a regional board*, for at least 3 years, as described, unless the state board or the appropriate regional board makes a specified finding regarding the satellite sewer system.

The bill would require the state board to impose fees upon owners and operators of separate sanitary sewer systems, sewage treatment plants, combined sewer systems, and combined sewer system treatment plants and others subject to waste discharge requirements, as provided, to finance the *prudent* implementation of these provisions. The state board would be required to establish a fee schedule so that the total amount of fees collected equals the amount necessary to recover costs incurred in the implementation of these provisions. The bill would require the state board to deposit the fees in the California Clean Water Act Fund, which the bill would establish in the State Treasury. The moneys in the fund would be ~~continuously appropriated~~ *available, upon*

appropriation by the Legislature, to the state board for expenditure by the state board and for allocation to the regional boards, as necessary, to implement the bill's provisions.

(2) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, makes available, upon appropriation by the Legislature, \$90,000,000 to the state board for matching grants to local public agencies to reduce and prevent stormwater contamination of rivers, lakes, and streams. Existing law establishes a list of projects that are eligible to receive funding pursuant to this stormwater program.

This bill would specify that, under prescribed circumstances and upon appropriation for those purposes, projects to install flow meters *or implement other flow monitoring methods approved by the state board* to measure *specified* stormwater impacts and projects to assist with *certain* sanitary sewer system and combined sewer system improvements to reduce stormwater inflow and infiltration are eligible to receive funding pursuant to this stormwater program.

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Clean Water Act.

3 SEC. 2. Section 75050.2 of the Public Resources Code is
4 amended to read:

5 75050.2. (a) The state board shall develop project selection
6 and evaluation guidelines for the allocation of funds made available
7 pursuant to subdivision (m) of Section 75050. Upon appropriation,
8 the funds shall be available for matching grants to local public
9 agencies, not to exceed five million dollars (\$5,000,000) per
10 project, for projects to achieve any of the following purposes in
11 accordance with the requirements of that subdivision:

12 (1) Complying with total maximum daily load requirements
13 established pursuant to Section 303(d) of the Clean Water Act (33
14 U.S.C. Sec. 1313(d)) and this division where pollutant loads have
15 been allocated to stormwater, including, but not limited to, metals,
16 pathogens, and trash pollutants.

1 (2) Assistance in implementing low-impact development and
2 other onsite and regional practices, on public and private lands,
3 that seek to maintain predevelopment hydrology for existing and
4 new development and redevelopment projects. Projects funded
5 pursuant to this paragraph shall be designed to infiltrate, filter,
6 store, evaporate, or retain runoff in close proximity to the source
7 of water.

8 (3) Implementing treatment and source control practices to meet
9 design and performance standard requirements for new
10 development.

11 (4) Treating and recycling stormwater discharge.

12 (5) Implementing improvements to combined municipal sewer
13 and stormwater systems.

14 (6) Implementing best management practices, and other
15 measures, required by municipal stormwater permits issued by a
16 California regional water quality control board or the state board.

17 (7) Assessing project effectiveness, including, but not limited
18 to, monitoring receiving water quality, determining pollutant load
19 reductions, and assessing improvements in stormwater discharge
20 water quality.

21 (8) Installing flow meters, *or implementing other flow*
22 *monitoring methods approved by the state board*, to measure
23 stormwater impacts pursuant to Section 14083 of the Water Code
24 in satellite sewer systems serving severely disadvantaged
25 communities.

26 (9) Assistance for sanitary sewer systems and combined sewer
27 systems that have received a grade of “F” pursuant to Section
28 14082 of the Water Code for improvements to reduce stormwater
29 inflow and infiltration in severely disadvantaged communities.

30 (b) (1) For the purpose of implementing subdivision (a), the
31 state board shall give preference to a project that does one or more
32 of the following:

33 (A) Supports sustained, long-term water quality improvements.

34 (B) Is coordinated or consistent with any applicable integrated
35 regional water management plan.

36 (2) The allocation of funds pursuant to this section shall be
37 consistent with water quality control plans and Section 75072.

38 (c) The state board shall require grant recipients for projects
39 described in subdivision (a) to assess and report on project
40 effectiveness, which may include monitoring receiving water

1 quality, determining pollutant load reductions, and assessing
2 improvements in stormwater discharge water quality resulting
3 from project implementation.

4 SEC. 3. Chapter 18 (commencing with Section 14080) is added
5 to Division 7 of the Water Code, to read:

6

7 CHAPTER 18. PUBLIC INFORMATION, SEWER SYSTEM GRADING,
8 AND WET WEATHER FLOWS

9

10 14080. For the purposes of this chapter, all of the following
11 terms shall have the following meanings:

12 (a) “Combined sewer system” means any wastewater collection
13 system that conveys sanitary, commercial, and industrial
14 wastewater and stormwater through a single-pipe collection system
15 to a sewage treatment plant.

16 (b) “Combined sewer overflows” means sewage overflows from
17 a combined sewer system, as defined by the United States
18 Environmental Protection Agency Combined Sewer Overflow
19 Control Policy (59 Fed. Reg. 18688, April 19, 1994).

20 (c) “Peaking factor” means the ratio of peak wet weather flows
21 in sewer lines compared to average dry weather flows in sewer
22 lines.

23 (d) “Sanitary sewer overflow” means any overflow, spill,
24 release, discharge, or diversion ~~from a separate sanitary sewer~~
25 ~~system at a point prior to the sewage treatment plant.~~ *Sanitary of*
26 *untreated or partially treated wastewater from a sanitary sewer*
27 *system. Sanitary sewer overflows include all of the following:*

28 (1) Overflows or releases of untreated or partially treated
29 wastewater that reach the waters of the United States.

30 (2) Overflows or releases of untreated or partially treated
31 wastewater that do not reach the waters of the United States.

32 (3) Wastewater backups into buildings or private property that
33 are caused by blockages or flow conditions within the
34 system-maintained portion of a separate sanitary sewer system.

35 (e) “Sanitary sewer system” means any separate sanitary sewer
36 system or any combined sewer system that is a system of pipes,
37 pump stations, sewer lines, or other conveyances designed and
38 used to collect and convey sanitary sewage to a sewage treatment
39 plant. *Sanitary sewer systems include only those systems that are*
40 *comprised of more than one mile of pipes or sewer lines.*

1 (f) “Satellite sewer system” means the portion, if any, of a
2 sanitary sewer system that is owned or operated by an entity or
3 public agency other than the entity or public agency that owns and
4 operates the sewage treatment plant to which the sanitary sewer
5 system is tributary.

6 (g) “Secondary treatment” means a level of treatment that
7 complies with Section 133.102 of Title 40 of the Code of Federal
8 Regulations.

9 (h) “Separate sanitary sewer system” means any system of pipes,
10 pump stations, sewer lines, or other conveyances designed and
11 used to collect and convey sanitary sewage, separate from
12 stormwater, to a sewage treatment plant.

13 (i) “Sewage treatment plant” means any facility used for the
14 treatment of sewage and capable of providing secondary treatment
15 of sewage, unless the owner or operator of the facility has secured
16 a modified permit pursuant to 33 U.S.C. Section 1311(h), in which
17 case the plant is capable of achieving primary treatment or
18 equivalent treatment, as defined in 33 U.S.C. Section 1311(h).

19 (j) “Waste discharge requirements” means waste discharge
20 requirements prescribed pursuant to this division, including waste
21 discharge requirements issued in accordance with the national
22 pollutant discharge elimination system (NPDES) permit program,
23 *or the state board’s Statewide General Waste Discharge*
24 *Requirements for Sanitary Sewer Systems, Order No.*
25 *2006-0003-DWQ, adopted May 2, 2006 .*

26 14081. (a) By January 1, 2010, the state board and each
27 regional board shall post on their respective Internet Web sites, at
28 a minimum, copies of the following documents maintained in their
29 files and generated on or after January 1, 2009:

30 (1) All waste discharge requirements prescribed by the state
31 board or a regional board.

32 (2) Any information, data, or report required to be submitted to
33 the state board or a regional board pursuant to monitoring
34 requirements set forth in waste discharge requirements.

35 (3) Any report addressing inspection, including, but not limited
36 to, United States Environmental Protection Agency inspection
37 reports, of any permitted facility by the state board, a regional
38 board, or any contractor retained by the state board or a regional
39 board.

1 (4) Any ~~proposed~~ *tentative* or final administrative enforcement
2 order issued by the state board or a regional board, including any
3 administrative compliance order, time schedule order, and final
4 administrative civil liability order, and any administrative civil
5 liability complaint issued by the state board or a regional board.

6 (5) Any judicial complaint filed by or against the state board or
7 a regional board, or in which the state board or a regional board
8 is a party, relating to a violation of this division or the federal Clean
9 Water Act, and any settlement agreement, consent decree, or
10 judgment resolving any judicial case relating to a violation of this
11 division or the federal Clean Water Act in which the state board
12 or a regional board is a party.

13 (6) Any list established pursuant to subdivision (b) of Section
14 14083.

15 (b) By January 1, 2010, the state board and each regional board
16 shall post on their respective Internet Web sites copies of any of
17 the documents described in subdivision (a), generated between
18 January 1, 2006, and December 31, 2008, for which the state board
19 or a regional board has electronic copies.

20 (c) For purposes of this section, “post” means placing the
21 documents on the Internet Web site in a format that may be readily
22 downloaded by the public.

23 (d) *The state board or a regional board may require a person*
24 *subject to waste discharge requirements to submit documents*
25 *required by the waste discharge requirements in electronic form*
26 *as prescribed by the relevant board.*

27 (e) *Documents sealed by a court, exempt from disclosure under*
28 *the California Public Records Act (Chapter 3.5 (commencing with*
29 *Section 6250) of Division 7 of Title 1 of the Government Code),*
30 *or for distribution or consideration in a closed session under the*
31 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
32 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
33 *the Government Code), shall not be subject to posting on an*
34 *Internet Web site pursuant to this section.*

35 14082. (a) Commencing January 1, 2011, the state board shall
36 issue a letter grade of “A,” “B,” “C,” “D,” or “F” annually for each
37 ~~separate sanitary sewer system, each sewage treatment plant, each~~
38 ~~combined sewer system, and each combined sewer system~~
39 ~~treatment plant.~~ *of the following that is subject to waste discharge*
40 *requirements:*

1 (1) *A separate sanitary sewer system.*

2 (2) *A sewage treatment plant.*

3 (3) *A combined sewer system.*

4 (4) *A combined sewer system treatment plant.*

5 (b) By July 1, 2009, the state board shall propose a letter grading
6 methodology consisting of grades “A,” “B,” “C,” “D,” or “F” for
7 each of the following:

8 (1) Separate sanitary sewer systems.

9 (2) Sewage treatment plants.

10 (3) Combined sewer systems.

11 (4) Combined sewer system treatment plants.

12 (c) By January 1, 2010, and after providing public notice and
13 opportunity for public comment, the state board shall establish a
14 letter grading methodology for each type of system or plant
15 described in subdivision (b).

16 (d) The state board shall review the letter grading methodologies
17 established pursuant to subdivision (c) every five years
18 commencing with 2015, to determine whether advances in
19 wastewater collection and treatment warrant revisions to impose
20 more stringent methodologies. The state board shall provide public
21 notice and opportunity for comment prior to making changes to a
22 letter grading methodology.

23 (e) The letter grading methodology for separate sanitary sewer
24 systems shall consist of the number, *volume, and cause* of sanitary
25 sewer overflows for each 100 miles of sewer line.

26 (f) The letter grading methodology for sewage treatment plants
27 shall reflect violations of waste discharge requirements, ~~incidents~~
28 ~~of bypassing any portion of the treatment plants, and discharges~~
29 ~~of any sewage that has not received secondary treatment.~~

30 (g) The letter grading methodology for each combined sewer
31 system shall reflect the combined sewer system’s adherence to the
32 provisions set forth in the system’s waste discharge requirements
33 and long-term combined sewer system control plan.

34 (h) The letter grading methodology for each combined sewer
35 system treatment plant shall reflect adherence to the requirements
36 set forth in each treatment plant’s waste discharge requirements.

37 14083. (a) By July 1, 2009, the state board shall establish a
38 methodology for measuring peaking factors for purposes of this
39 section. The state board shall also establish, as necessary,
40 monitoring and reporting requirements to measure peaking factors.

1 (b) By July 1, 2010, and by July 1 of each year thereafter, the
2 state board shall establish a list of all sewage treatment plants that
3 treat waste collected from separate sanitary sewer systems and for
4 which the state board finds both of the following:

5 (1) The sewage treatment plant has experienced a peaking factor
6 that equals or exceeds a designation of “seven.”

7 (2) Peak wet weather flows have either caused or contributed
8 to discharges in violation of waste discharge requirements from
9 the sewage treatment plant, or caused or contributed to a bypass
10 of secondary treatment during a storm that does not exceed the
11 rainfall depth duration frequency of 10 years and 24 hours as posted
12 by the Department of Water Resources.

13 (c) The state board ~~shall~~ *may* review, and modify if necessary,
14 the designated peaking factor established in paragraph (1) of
15 subdivision (b) ~~every five years commencing with 2015~~, to reflect
16 current information about the levels of peak wet weather flow that
17 correlate with increased risk of sanitary sewer overflows, or
18 discharges in violation of waste discharge requirements. Before
19 establishing the list pursuant to subdivision (b), the state board
20 shall provide public notice and opportunity for comment.

21 (d) (1) Any satellite sewer system that discharges sewage to a
22 sewage treatment plant that has been placed on the list pursuant
23 to subdivision (b) shall, within two years of that placement, install
24 and operate flow meters, ~~adequate to measure all~~ *or employ another*
25 *flow monitoring methodology approved by the state board or a*
26 *regional board, adequate to measure or accurately estimate*
27 discharges to the sewage treatment plant, for at least three years.

28 (2) Paragraph (1) does not apply if the state board or a regional
29 board finds, based on clear and convincing evidence, that the
30 satellite sewer system’s contribution of wet weather peak flows
31 does not pose a risk of causing or contributing to discharges in
32 violation of waste discharge requirements or causes or contributes
33 to a bypass ~~or~~ *of* secondary treatment during a storm that does not
34 exceed the rainfall depth duration frequency of 10 years and 24
35 hours as determined by the department.

36 (e) The satellite sewer system shall continue to operate the flow
37 meters *or employ other flow monitoring methodologies* required
38 pursuant to subdivision (d) unless either the sewage treatment plant
39 to which it discharges is removed from the list established pursuant
40 to subdivision (b) or the state board or a regional board finds, based

1 on clear and convincing evidence, that the satellite sewer system's
2 additional contribution of wet weather peak flows no longer poses
3 a risk of causing or contributing to discharges in violation of waste
4 discharge requirements or causes or contributes to a bypass ~~or~~ of
5 secondary treatment during a storm that does not exceed the rainfall
6 depth duration frequency of 10 years and 24 hours as determined
7 by the department. Before making that finding, the state board
8 shall provide public notice and opportunity for comment.

9 14084. (a) The state board shall impose fees upon owners and
10 operators of separate sanitary sewer systems, sewage treatment
11 plants, combined sewer systems, and combined sewer system
12 treatment plants, and on those persons subject to waste discharge
13 requirements for the purposes of funding implementation of Section
14 14081 as determined by the state board, to finance the *prudent*
15 implementation of this chapter. The state board shall establish a
16 fee schedule so that the total amount of fees collected pursuant to
17 this section equals the amount necessary to recover costs, including,
18 but not limited to, administrative costs, incurred in the
19 implementation of this chapter.

20 (b) The fees shall be deposited in the California Clean Water
21 Act Fund, which is hereby established in the State Treasury.
22 ~~Notwithstanding Section 13340 of the Government Code, the~~
23 ~~moneys in the fund are hereby continuously appropriated, without~~
24 ~~regard to fiscal year, to the state board for~~ *Moneys in the fund shall*
25 *be available, upon appropriation by the Legislature, to the state*
26 *board for expenditure by the state board and for allocation to*
27 *regional boards, as appropriate, to implement this chapter.*