Final California Water Conservation Plan and Proposed Legislation Released

Urban Water Suppliers Face Far-Reaching Consequences

Urban water suppliers would face significant new requirements under water conservation and drought resiliency legislation proposed by Gov. Jerry Brown. The legislation, released in the form of budget trailer bill language late Friday, implements portions of a May 2016 Executive Order issued by Brown to conserve water supplies and make California more drought resilient. If enacted, the legislation would amend, repeal or add 42 different sections of the California Water Code and have long-term implications for urban water suppliers throughout the State.

Earlier Friday, Brown issued a new Executive Order B-40-17 terminating the drought state of emergency, which went into effect in January 2014, for all but four counties (Fresno, Kings, Tulare and Tuolumne). The new Executive Order retains and refines the water conservation mandates from the May 2016 Executive Order. In addition, five state agencies, including the Department of Water Resources and the State Water Resources Control Board, released a final report, “Making Water Conservation a California Way of Life,” which contains the State’s comprehensive plan for conserving water and preparing for droughts.

The plan will be implemented through legislation, emergency rulemaking and regular rulemaking, which are expected to lead to a host of new mandatory local actions with state agency oversight.

Proposed Legislation
The budget trailer bill language addresses two key areas: Water-use efficiency and preparing for drought conditions. Key elements include:

Water Conservation Standards and Targets. The prior Executive Order called for developing new water-use targets that build on existing requirements that the State achieve a 20 percent reduction in urban water usage by 2020. (SB 7X-7, 2009-2010.) The proposed legislation would provide new statutory authorities to
the State Water Board in determining how such water-use targets are calculated. In particular, under a proposed new section 10609 of the Water Code, the Board, in consultation with the DWR, would be required to “adopt long-term standards for urban water conservation and water use” by May 20, 2021. This would be done through regular rulemaking. According to the plan, these standards would then be applied by urban water suppliers when calculating their new locally tailored water conservation targets. In addition, the Board would be able to set interim standards via emergency regulation to ensure progress starts before the final standards are in place.

**Water Shortage Contingency Planning.** In preparing Urban Water Management Plans, urban water suppliers would be required to adopt Water Shortage Contingency Plans (currently a water-shortage contingency “analysis” is required) and to conduct a “drought risk assessment” every five years. The WSCP would require:

- Six standard water shortage levels corresponding to progressive ranges of up to 10, 20, 30, 40 and 50 percent shortages and greater than 50 percent shortage.
- “Shortage response actions” for each shortage level. An urban water supplier would be required to declare a water-shortage emergency in accord with Section 350 et seq. of the Water Code in the event of a water shortage level 4 or greater, or a catastrophic interruption to water supply.
- Procedures for conducting an annual “water budget forecast” with prescribed elements. Under a proposed new Water Code Section 10632.1, urban water suppliers would be required to submit, by May 10 of each year, an “annual water shortage assessment report” to DWR.

*Further Elements.* The proposed legislation contains many other elements, including descriptive and analytical requirements involving climate change and land-use planning, tie-ins to the Sustainable Groundwater Management Act, compliance and enforcement provisions, public notice and communications requirements, and separate requirements for agricultural water suppliers.

**Rulemaking**

Under the Executive Order and final plan, the State Water Board is expected to engage in a two-prong rulemaking process during 2017 to establish permanent prohibitions on wasteful water practices, such as hosing off driveways, and require continued monthly reporting by water suppliers on local water usage and conservation efforts.

To reduce water losses (leaks) in water systems, the plan calls for implementation of Senate Bill 555, with DWR adopting rules in 2017 for validated water loss audit reports, and the Water Board establishing water loss performance standards by July 1, 2020.

The new Executive Order calls for the State Board to rescind the portions of its existing emergency regulations that require a water supply “stress test” or
mandatory conservation standard for urban water agencies. The Board likely will do this in May. The new Executive Order also includes a provision directing the Water Board to work with state agencies and water suppliers “to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation.”

**Trailer Bill Language**

Trailer bill language is the implementing language of the California State Budget Bill. The Regular Session and Special Session trailer bill language for this year’s Governor’s Budget, including the new water conservation language contained in Section 810, are housed on the Department of Finance website.

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