

Assembly Bill No. 574

CHAPTER 528

An act to amend Sections 13560 and 13561 of, to amend the heading of Chapter 7.3 (commencing with Section 13560) of Division 7 of, and to add Sections 13560.5 and 13561.2 to, the Water Code, relating to water.

[Approved by Governor October 6, 2017. Filed with
Secretary of State October 6, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 574, Quirk. Potable reuse.

Existing law establishes the State Water Resources Control Board and the California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law required the State Department of Public Health to, on or before December 31, 2013, adopt uniform water recycling criteria for indirect potable reuse for groundwater recharge. Existing law also required the department to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel found that the criteria would adequately protect public health, and required the department to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse and to provide a final report on that investigation to the Legislature by December 31, 2016. Existing law defined the terms "direct potable reuse" and "surface water augmentation" for these purposes. Existing law transferred these powers and responsibilities to the State Water Resources Control Board on July 1, 2014.

This bill would specify that "direct potable reuse" includes "raw water augmentation" and "treated drinking water augmentation." The bill would change the term "surface water augmentation" to "reservoir water augmentation" and would redefine that term to mean the planned placement of recycled water into a raw surface water reservoir used as a source of domestic drinking water supply for a public water system or into a constructed system conveying water to such a reservoir.

This bill would require the state board, on or before December 31, 2023, to adopt uniform water recycling criteria for direct potable reuse through raw water augmentation, as specified. The bill would require the state board to establish and administer an expert review panel, as specified, and would require the state board, before adopting the uniform water recycling criteria, to submit the proposed criteria to the expert review panel. The bill would prohibit the state board from adopting the uniform water recycling criteria until the expert review panel adopts a finding that the proposed criteria would adequately protect public health. The bill would allow the state board to extend the date by which the uniform water recycling criteria is to be

adopted if certain criteria is met. The bill would authorize the state board, after it has adopted the initial uniform water recycling criteria, to reconvene or reestablish the expert review panel.

This bill would make certain findings and declarations relating to potable reuse, including a finding that the state board, on or before June 1, 2018, should establish a framework for the regulation of potable reuse projects.

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

SECTION 1. The heading of Chapter 7.3 (commencing with Section 13560) of Division 7 of the Water Code is amended to read:

CHAPTER 7.3. POTABLE REUSE

SEC. 2. Section 13560 of the Water Code is amended to read:

13560. The Legislature finds and declares the following:

(a) In February 2009, the state board unanimously adopted, as Resolution No. 2009-0011, an updated water recycling policy, which includes the goal of increasing the use of recycled water in the state over 2002 levels by at least 1,000,000 acre-feet per year by 2020 and by at least 2,000,000 acre-feet per year by 2030.

(b) Section 13521 requires the department to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health.

(c) Achievement of the state's goals depends on the timely development of uniform statewide recycling criteria for potable water reuse and of a clear pathway for approval of potable reuse projects.

(d) This chapter is not intended to delay, invalidate, or reverse any study or project, or development of regulations by the department, the state board, or the regional boards regarding the use of recycled water for potable reuse.

(e) This chapter shall not be construed to delay, invalidate, or reverse the state board's ongoing review of projects consistent with Section 116551 of the Health and Safety Code.

(f) The water recycling goals of 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010, established in Section 13577, have not been met.

(g) It is the intent of the Legislature to encourage the development of potable reuse to mitigate the impact of long-term drought and climate change.

(h) A 2014 report by the WateReuse Research Foundation, "The Opportunities and Economics of Direct Potable Reuse" found that potable reuse could provide up to 1.1 million acre-feet per year of new drinking water supplies for California.

(i) The state board adopted uniform water recycling criteria for the replenishment of groundwater basins in June 2014 and is developing uniform water recycling criteria for the augmentation of surface water reservoirs pursuant to Section 13562.

(j) The state board report to the Legislature, “Investigation on the Feasibility of Developing Uniform Water Recycling Criteria for Direct Potable Reuse,” found that it is feasible to develop uniform water recycling criteria for direct potable reuse that is protective of public health.

(k) The state board report to the Legislature stated that the state board should develop a common framework across various types of direct potable reuse projects to help avoid discontinuities in the risk assessment and then sequentially develop uniform water recycling criteria.

SEC. 3. Section 13560.5 is added to the Water Code, to read:

13560.5. The Legislature finds and declares that on or before June 1, 2018, the state board should establish a framework for the regulation of potable reuse projects. When establishing the framework, the state board should include all of the following:

(a) The consideration of recommendations provided in the state board’s “Investigation on the Feasibility of Developing Uniform Water Recycling Criteria for Direct Potable Reuse.”

(b) A schedule for completing the recommended research described in “Investigation on the Feasibility of Developing Uniform Water Recycling Criteria for Direct Potable Reuse.”

(c) A regulatory framework for potable reuse projects that will be protective of public health.

(d) A process and timeline for updating, if necessary, uniform water recycling criteria for potable reuse through reservoir water augmentation.

SEC. 4. Section 13561 of the Water Code is amended to read:

13561. For purposes of this chapter, the following terms have the following meanings:

(a) “Department” or “state board” means the State Water Resources Control Board.

(b) “Direct potable reuse” means the planned introduction of recycled water either directly into a public water system, as defined in Section 116275 of the Health and Safety Code, or into a raw water supply immediately upstream of a water treatment plant. Direct potable reuse includes, but is not limited to, the following:

(1) “Raw water augmentation,” which means the planned placement of recycled water into a system of pipelines or aqueducts that deliver raw water to a drinking water treatment plant that provides water to a public water system, as defined in Section 116275 of the Health and Safety Code.

(2) “Treated drinking water augmentation,” means the planned placement of recycled water into the water distribution system of a public water system, as defined in Section 116275 of the Health and Safety Code.

(c) “Indirect potable reuse for groundwater recharge” means the planned use of recycled water for replenishment of a groundwater basin or an aquifer that has been designated as a source of water supply for a public water system, as defined in Section 116275 of the Health and Safety Code.

(d) “Reservoir water augmentation” means the planned placement of recycled water into a raw surface water reservoir used as a source of domestic drinking water supply for a public water system, as defined in Section

116275 of the Health and Safety Code, or into a constructed system conveying water to such a reservoir.

(e) “Uniform water recycling criteria” has the same meaning as in Section 13521.

SEC. 5. Section 13561.2 is added to the Water Code, to read:

13561.2. (a) On or before December 31, 2023, the state board shall adopt uniform water recycling criteria for direct potable reuse through raw water augmentation. In adopting the initial uniform recycling criteria for direct potable reuse through raw water augmentation, the state board shall comply with all of the following:

(1) The state board shall develop the uniform water recycling criteria for direct potable reuse through raw water augmentation using information from the recommended research described in subdivision (b) of Section 13560.5 after soliciting stakeholder input from water agencies, wastewater agencies, local public health officers, environmental organizations, environmental justice organizations, public health nongovernmental organizations, and the business community.

(2) Before adopting uniform water recycling criteria for raw water augmentation, the state board shall submit the proposed criteria to the expert review panel established pursuant to subdivision (c). The expert review panel shall review the proposed criteria and shall adopt a finding as to whether, in its expert opinion, the proposed criteria would adequately protect public health.

(3) The state board shall not adopt uniform water recycling criteria for raw water augmentation pursuant to this subdivision unless and until the expert review panel adopts a finding that the proposed criteria would adequately protect public health.

(4) If the state board finds it will be unable to adopt the uniform water recycling criteria by December 31, 2023, the state board may, by June 30, 2023, extend the uniform water recycling criteria deadline by up to 18 months.

(5) If the state board finds that it needs longer than the deadline that has been extended pursuant to paragraph (4), the state board shall do all of the following:

(A) Post on its Internet Web site the date by which it intends to adopt the uniform water recycling criteria.

(B) If the state board determines that the recommended research described in subdivision (b) of Section 13560.5 is insufficient, consult with the expert review panel described in subdivision (c) regarding the research and, if necessary, the need for additional scientific and technical research. The expert review panel shall also determine the scientific and technical research necessary for the state board to complete the uniform water recycling criteria, including an estimated timeframe needed to conduct the scientific and technical research.

(C) No later than June 30, 2024, post on its Internet Web site the findings and determinations made, if any, by the expert review panel described in subdivision (c) under subparagraph (B).

(b) Nothing in this section shall prohibit the state board from using its existing authority to permit potable reuse projects pursuant to Section 116550 of the Health and Safety Code before the adoption of uniform recycling criteria pursuant to this section.

(c) (1) Before adopting the initial uniform water recycling criteria for direct potable reuse through raw water augmentation, the state board shall establish and administer an expert review panel for purposes of subdivision (a) and, if the state board deems it necessary, to provide additional scientific and technological research or to recommend a source of either existing research or research to be produced on direct potable reuse through raw water augmentation. After the state board has adopted the initial uniform water recycling criteria for raw water augmentation, the state board may reconvene or reestablish the expert review panel, if the state board deems it necessary, to provide additional scientific and technological research or to recommend a source of either existing research or research to be produced on raw water augmentation. In establishing and administering an expert review panel, the state board may contract with public or nonprofit research entities.

(2) Each member of the expert review panel shall receive one hundred dollars (\$100) for each day the member attends a meeting of the expert review panel or of the state board plus actual and necessary travel expenses, including expenses for lodging and meals, and for each day the member spends conducting other official business of the expert review panel.