

Assembly Bill No. 739

CHAPTER 610

An act to amend Section 11352 of the Government Code, to add Sections 5096.827.2, 5096.827.3, 75050.2, and 75050.4 to the Public Resources Code, and to add Sections 13383.7 and 13383.8 to the Water Code, relating to water.

[Approved by Governor October 13, 2007. Filed with
Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 739, Laird. Stormwater discharge.

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 in accordance with the national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act).

The Safe Drinking Water, Water Quality and Supply, Flood Control, River, and Coastal Protection Bond Act of 2006 (initiative bond act) authorizes the issuance of bonds in the amount of \$5,388,000,000. The Disaster Preparedness and Flood Prevention Bond Act of 2006 authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing a disaster preparedness and flood prevention program.

This bill would require the Department of Water Resources to develop project selection and evaluation guidelines to implement a specified stormwater flood management grant program financed by the Disaster Preparedness and Flood Prevention Bond Act of 2006. The bill would provide that the design and construction of projects for combined municipal sewer and stormwater systems are eligible for financing under that grant program. The bill would require the state board to develop project selection and evaluation guidelines for the allocation of funds made available by the initiative bond act for a stormwater contamination prevention and reduction program. The bill would provide for the expenditure of those funds, upon appropriation, for specified projects. Grant recipients would be required to assess and report on project effectiveness. The bill would require the state board and the department to consult with each other, as necessary, with regard to the development of project selection and evaluation guidelines for various programs involving stormwater management that are financed by the initiative bond act or the Disaster Preparedness and Flood Prevention Bond Act of 2006. The state board would be required, no later than July 1, 2009, and after holding public workshops and soliciting public comments, to develop a comprehensive guidance document for evaluating and measuring

the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with the NPDES permit program and the state act. The state board and the regional boards would be required to refer to the guidance document when establishing requirements in municipal stormwater programs and permits for evaluation and reporting on program effectiveness. The bill would require the state board to appoint a stormwater management task force comprised of public agencies, representatives of the regulated community, and nonprofit organizations, and to submit a specified report on polluted runoff control to the Ocean Protection Council no later than January 1, 2009.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The federal Clean Water Act requires the regulation of stormwater discharges under the national pollutant discharge elimination system (NPDES) permit program. The State Water Resources Control Board and the California regional water quality control boards have been designated by the United States Environmental Protection Agency to implement the NPDES stormwater program.

(b) Polluted runoff, including stormwater discharges, is generated by runoff from land and impervious areas such as paved streets, parking lots, and building rooftops during both dry and wet months. Stormwater discharges often contain pollutants in quantities that could adversely affect water quality. Stormwater discharges can also accelerate stream erosion, causing increased sedimentation downstream, loss of flood conveyance capacity, and increased flood damage risk.

(c) The State Water Resources Control Board and the California regional water quality control boards, in their 2001 strategic plan, indicate that polluted runoff is the leading cause of water quality problems in the state. The United States Environmental Protection Agency considers urban stormwater pollution a serious source of pollution in the waters of the United States.

(d) The State Water Resources Control Board's Resolution No. 2000-0006, dated January 2005, which adopted sustainability as a core value for all activities and programs, supports sustainable practices related to water quality and water supply, including, but not limited to, low-impact development that seeks to maintain predevelopment runoff rates and volumes. Low-impact development includes specific techniques such as reducing the amount of impermeable surfaces and increasing infiltration.

(e) The State Water Resources Control Board and the Department of Water Resources should coordinate applicable financial assistance programs to maximize public benefits and leverage local and federal funding.

(f) The State Water Resources Control Board should provide state oversight regarding the NPDES stormwater program, including guidance,

priorities, policy direction, technical assistance, and evaluation of program effectiveness.

SEC. 1.5. Section 11352 of the Government Code is amended to read:

11352. The following actions are not subject to this chapter:

(a) The issuance, denial, or waiver of any water quality certification as authorized under Section 13160 of the Water Code.

(b) The issuance, denial, or revocation of waste discharge requirements and permits pursuant to Sections 13263 and 13377 of the Water Code and waivers issued pursuant to Section 13269 of the Water Code.

(c) The development, issuance, and use of the guidance document pursuant to Section 13383.7 of the Water Code.

SEC. 2. Section 5096.827.2 is added to the Public Resources Code, to read:

5096.827.2. (a) The department shall develop project selection and evaluation guidelines to implement Section 5096.827. The State Water Resources Control Board shall advise the department on the water quality portions of the guidelines, relying as appropriate on the stormwater guidelines developed by the State Water Resources Control Board pursuant to Section 75050.2.

(b) The guidelines shall include a provision that gives preference to a project that reduces flood damages for which one or both of the following applies:

(1) The project is not receiving state funding for flood control or flood prevention projects pursuant to Section 5096.824 or Section 75034.

(2) The project provides multiple benefits, including, but not limited to, water quality improvements, ecosystem benefits, reduction of instream erosion and sedimentation, and groundwater recharge.

SEC. 3. Section 5096.827.3 is added to the Public Resources Code, to read:

5096.827.3. Consistent with the requirements of Sections 5096.827 and 5096.827.2, the design and construction of projects for combined municipal sewer and stormwater systems are eligible for financing under Section 5096.827.

SEC. 4. Section 75050.2 is added to the Public Resources Code, to read:

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

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

(2) Assistance in implementing low-impact development and other onsite and regional practices, on public and private lands, that seek to maintain predevelopment hydrology for existing and new development and

redevelopment projects. Projects funded pursuant to this paragraph shall be designed to infiltrate, filter, store, evaporate, or retain runoff in close proximity to the source of water.

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

(4) Treating and recycling stormwater discharge.

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

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

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

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

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

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

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

(c) The state board shall require grant recipients for projects described in subdivision (a) to assess and report on project effectiveness, which may include monitoring receiving water quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality resulting from project implementation.

SEC. 5. Section 75050.4 is added to the Public Resources Code, to read:

75050.4. The state board and the department shall consult with each other, as necessary, with regard to the development of project selection and evaluation guidelines for the following financial assistance programs that are directed, in whole or in part, for municipal stormwater management, to avoid duplication and maximize water quality benefits:

(a) Section 5096.827.

(b) Subdivision (a) of Section 75026.

(c) Subdivision (m) of Section 75050.

(d) Subdivision (a) of Section 75060.

SEC. 6. Section 13383.7 is added to the Water Code, to read:

13383.7. (a) No later than July 1, 2009, and after holding public workshops and soliciting public comments, the state board shall develop a comprehensive guidance document for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.

(b) For the purpose of implementing subdivision (a), the state board shall promote the use of quantifiable measures for evaluating the effectiveness of municipal stormwater management programs and provide for the evaluation of, at a minimum, all of the following:

(1) Compliance with stormwater permitting requirements, including all of the following:

- (A) Inspection programs.
 - (B) Construction controls.
 - (C) Elimination of unlawful discharges.
 - (D) Public education programs.
 - (E) New development and redevelopment requirements.
- (2) Reduction of pollutant loads from pollution sources.
- (3) Reduction of pollutants or stream erosion due to stormwater discharge.
- (4) Improvements in the quality of receiving water in accordance with water quality standards.

(c) The state board and the regional boards shall refer to the guidance document developed pursuant to subdivision (a) when establishing requirements in municipal stormwater programs and permits.

SEC. 7. Section 13383.8 is added to the Water Code, to read:

13383.8. (a) The state board shall appoint a stormwater management task force comprised of public agencies, representatives of the regulated community, and nonprofit organizations with expertise in water quality and stormwater management. The task force shall provide advice to the state board on its stormwater management program that may include, but is not limited to, program priorities, funding criteria, project selection, and interagency coordination of state programs that address stormwater management.

(b) The state board shall submit a report, including, but not limited to, stormwater and other polluted runoff control information, to the Ocean Protection Council no later than January 1, 2009, on the way in which the state board is implementing the priority goals and objectives of the council's strategic plan.