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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2023 - 2024 Regular Session

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### AB 1572 (Friedman) - Potable water: nonfunctional turf

**Version:** August 16, 2023

**Urgency:** No

**Hearing Date:** August 28, 2023

**Policy Vote:** N.R. & W. 7 - 2

**Mandate:** No

**Consultant:** Ashley Ames

**Bill Summary:** This bill would prohibit the use of potable water for irrigation of nonfunctional turf located on commercial, industrial, or institutional properties as specified, authorize the State Water Resources Control Board (SWRCB) to create a form for compliance certification, and require the Governor's Office of Business and Economic Development (GO-Biz) to support small and minority-owned businesses providing services that could advance compliance.

#### **Fiscal Impact:**

- GO-Biz estimates ongoing costs of about \$136,000 annually (General Fund) for one position to provide information and technical assistance to small and minority-owned businesses.
- Unknown but potentially significant costs, possibly as high as tens of millions of dollars (General Fund), for the Department of General Services (DGS) to replace nonfunctional turf on state-owned properties where nonpotable water is not available for irrigation. DGS notes, however, that costs could be as little as zero if the department did nothing and allowed all nonfunctional turf die off without replacing it. This theoretical possibility is unlikely due to the visual blight that would result, but it does illustrate the wide range of potential DGS costs.
- Unknown, potentially significant costs (General Fund) for the California Department of Education, the University of California, and other state agencies to comply with the provisions of this bill.
- The SWRCB and the Department of Water Resources (DWR) anticipate any costs would be minor and absorbable.

**Background:** California, along with other Western states, experienced severe drought conditions from 2021 until this winter. Drought, even extreme drought, is not unusual for this region, but the fact that California experienced such severe dry conditions only a few years after its worst drought on record from 2012-16 has raised alarm bells across the state and the West. The situation in the Colorado River Basin has led U.S. Bureau of Reclamation Commissioner Camille Touton to call for a reduction in use of Colorado River water of between 2 million acre-feet (AF) and 4 million AF annually to avoid loss of power generation and to ensure water deliveries.

*California drought emergency.* Between 2021 – 2023, the state found itself in a drought emergency. The Governor first declared a drought emergency in Mendocino and Sonoma Counties on April 21, 2021, directing various actions to conserve water, and extended the emergency to an additional 39 counties on May 10, 2021. On October 19, 2021, the Governor declared a statewide drought emergency. In total, the emergency

was extended seven times due to ongoing drought conditions. Because of worsening drought conditions in early 2022, the Governor expanded the state's drought response by issuing Executive Order (EO) N-7-22 on March 28, 2022. EO N-7-22 directed a suite of actions, including that the State Water Resources Control Board (SWRCB) consider adopting an emergency regulation banning the irrigation of "nonfunctional turf" in the commercial, industrial, and institutional sectors. On March 28, 2023, Governor Newsom lifted the drought emergency for most regions of the state by issuing EO N-5-23.

*Emergency regulation on nonfunctional turf.* Following the Governor's direction, SWRCB adopted an emergency regulation prohibiting the use of potable water for the irrigation of nonfunctional turf at commercial, industrial, and institutional sites, with limited exceptions. The emergency regulation defined "nonfunctional turf" as turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Under the regulations, nonfunctional turf does not include sports fields. The emergency regulation took effect on June 10, 2022, and will be in effect until June 2024.

*Governor's "California's Water Supply Strategy: Adapting to a Hotter, Drier Future" (August 2022).* Governor Newsom released this strategy to address a projected 10% decrease in water supply (6 million to 9 million AF of water) by 2040 due to climate change. To address this shortfall, the strategy sets targets and outlines actions for increased water recycling, desalination, stormwater capture, and water conservation as well as an expansion of 4 million AF of surface and underground storage. Achieving the targets laid out in the strategy would "close the evaporative gap." One action highlighted is the conversion of 500 million square feet of ornamental turf by 2030. The Administration asserts this can be achieved through programs and policies that incentivize turf conversion and that, if this goal is achieved, it could save 66,000 AF of water annually at a cost of \$1 billion.

*Nevada nonfunctional turf ban.* In 2021, the Nevada Legislature enacted AB 356 (Committee on Ways and Means) that prohibits the use of Colorado River water to irrigate nonfunctional turf on commercial, multi-family, and institutional properties within the service territory of the Southern Nevada Water Authority (SNWA) or its member agencies beginning January 1, 2027. SNWA serves more than 2.2 million residents in Southern Nevada, including the Las Vegas metropolitan area. AB 356 directed SNWA to define nonfunctional turf and SNWA has, in turn, developed the following definition: "an irrigated grass area not providing functional use;" SNWA indicates that examples include streetscape turf; grass in front of, between, behind or otherwise adjacent to a properties not zoned single-family residential; and turf managed by an HOA that does not provide a recreational benefit to the community. This bill's definition is similar to that used by SNWA.

**Proposed Law:** This bill would prohibit the use of potable water for irrigation of nonfunctional turf located on commercial, industrial, or institutional properties, among other things. Specifically, this bill would:

1. Define "nonfunctional turf" as any turf that is not functional turf, and includes turf located within street rights-of-way and parking lots.

- a. Defines “functional turf” as ground cover surface of turf located in a recreational use area or community space. Does not include turf enclosed by fencing or other barriers to permanently preclude human access for recreation or assembly.
2. Phase out the use of potable water for the irrigation of nonfunctional turf located on CII properties other than a cemetery and on properties of homeowners’ associations, common interest developments, and community service organizations or similar entities as follows:
  - a. Beginning January 1, 2027:
    - i. All properties owned by DGS.
    - ii. All properties owned by local governments, local or regional public agencies, and public water systems, except as specified.
  - b. Beginning January 1, 2028: All other institutional properties and all commercial and industrial properties.
  - c. Beginning January 1, 2029: All common areas of properties of homeowners’ associations, common interest developments, and community service organizations or similar entities.
  - d. Beginning January 1, 2031, or the date a state funding source is made available to fund the conversion of nonfunctional turf to climate-appropriate landscapes for these properties, whichever is later: All properties owned by local governments, local public agencies, and public water systems in a disadvantaged community.
3. Specify that the use of potable water is not prohibited to the extent it is necessary to ensure the health of trees and other perennial nonturf plantings, or to the extent necessary to address an immediate health and safety need.
4. Authorize SWRCB, upon showing of good cause, to postpone the above compliance deadlines by up to three years for certain persons, institutions, and businesses.
5. Require public water systems, by January 1, 2027, to revise their regulations, ordinances, or policies governing water service to include these requirements relating to the use of potable water, and requires the public water systems to communicate these requirements to their customers.
6. Require an owner of CII property with more than 5,000 square feet of irrigated area, other than a cemetery, to certify to SWRCB, commencing in 2030 and every three years thereafter through 2039, that their property complies with these requirements.
7. Require an owner of a property with more than 5,000 square feet of irrigated common area that is a homeowners’ association, common interest development, or community service organization or similar entity to certify to SWRCB, commencing 2031 and every three years thereafter through 2040, that their property complies with these requirements.

8. A person or entity who does not comply with these provisions or regulations adopted pursuant to these provisions is subject to civil liability and penalties, as specified.
9. Authorize a public water system, city, county, or city and county to enforce these provisions.
10. Require the DWR to prioritize financial assistance for nonfunctional turf replacement to public water systems serving disadvantaged communities and to owners of affordable housing when using funds appropriated for water conservation for turf replacement.
11. Require an integrated regional water management plan, which may be prepared and adopted by a regional water management group, to include identification and consideration of the water needs of owners and occupants of affordable housing, including the removal and replacement of nonfunctional turf.
12. Make findings and declarations relating to the use of potable water for the irrigation of nonfunctional turf.

**Related Legislation:**

AB 1573 (Friedman, 2023) would make changes to required provisions in the Model Water Efficient Landscape Ordinance developed by DWR, including requiring the use of more native or water efficient plants and a prohibition on the use of nonfunctional turf in new or renovated commercial and industrial areas.

SB 606 (Hertzberg, Chapter 14, Statutes of 2018) requires SWRCB and DWR to adopt water efficiency regulations, outlines requirements for water suppliers, specifies penalties for violations, and makes technical, conforming changes.

AB 1668 (Friedman, Chapter 15, Statutes of 2018), among other provisions, requires DWR, in consultation with SWRCB and other stakeholders, to identify small water suppliers and rural communities that may be at risk of drought and water shortage vulnerability by January 1, 2020. Further requires DWR by January 1, 2020, to propose recommendations and guidance regarding the development and use of countywide drought contingency plans to address drought planning for small water suppliers and rural communities.

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