



**REVISED
ACTION ITEM**
April 19, 2017

TO: Board of Directors

FROM: **Public Affairs & Legislation Committee**
(Directors Dick, Tamaribuchi, and Yoo Schneider)

Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: AB 968 (Rubio) – Long-Term Water Use Efficiency

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to consider adopting a conditional support position on AB 968 (Rubio) as it is still in draft form.

COMMITTEE RECOMMENDATION

The Committee recommended a “support as proposed to be amended.” The bill was amended as proposed and the new (and approved) language is attached

SUMMARY

AB 968 is a spot bill that will respond to the Governor’s Executive Order issued in May 2016 (EO B-37-16) requiring new water use targets that build on the existing 20 percent reduction in urban water usage by 2020 (SB-X7-7, 2009-2010). Under the Executive Order, the targets must be customized to the unique conditions of each water agency and be based on strengthened standards for: indoor residential per capita water use; outdoor irrigation; commercial, industrial and institutional water use; and water lost through leaks.

ACWA’s State Legislative Committee has developed language to address this issue. The bill is expected to be amended to include this language at some point in the near future. (The Committee’s language for another element of the Executive Order – water shortage planning – was amended into another spot bill, AB 1654, on March 28. AB 968 is a companion piece with AB 1654.)

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core x	Choice __
Action Item Amount: none		Line Item:	
Fiscal Impact (explain if unbudgeted):			

Water Use Efficiency Targets

AB 968, as amended, would retain the Legislature's existing authority to establish or change long-term targets or standards, and would establish a long-term framework for urban water use efficiency. It would provide that urban retail water suppliers would retain authority for setting their own water use efficiency targets for 2025 in their 2020 UWMP, based on methods prescribed in the statute. Such targets could be determined on a fiscal or calendar year basis, and a supplier would be able to adjust and update the target based on population growth, changes in irrigable landscape area, and other changes affecting water use.

Compliance

Under the amended bill, suppliers would be required to meet their water use efficiency targets by December 31, 2025, unless economic or hydrologic conditions beyond the supplier's control renders it impossible. Urban retail water suppliers could report progress toward achieving targets on an individual or regional basis. They would be required to report on their compliance in their 2025 UWMP. Calculations for determining compliance would be included in the statute. DWR would be required to develop, in consultation with the Urban Stakeholder Committee, standardized variance methodologies for livestock, swamp coolers, significant transient population increases, construction water for soil compaction and dust control, and other factors. (The bill contains provisions regarding how the Urban Stakeholder Committee would function.)

Commercial, Industrial and Institutional Sectors

To address commercial, industrial and institutional sectors, the proposed language calls for DWR to be required to convene a task force including urban retail water suppliers, urban wholesale water suppliers, and others. The objective would be to recommend appropriate water efficiency measures for various segments of these three water use sectors. The task force, in consultation with DWR and the Water Board, would be required to submit a report to the Legislature about the recommendations by December 31, 2019.

Irrigable Areas

Regarding irrigable areas, the bill as amended would contain provisions governing the use of aerial imagery to determine the extent of such areas, and DWR's maintenance of a database related to this information. It would allow an urban retail water supplier to use its own database of validated aerial imagery, measured irrigable area and date of parcel development for properties within its service areas if the supplier certifies it is of comparable or better quality than DWR's database.

Other Provisions

The proposed language includes many other provisions. For example, the bill, as amended, would establish that recycled water, as defined, would be excluded from the "gross water use" volume used to calculate targets under one of the prescribed calculation methods. Additionally, the proposed language declares that existing water rights law would not be disturbed by the bill and that the State Water Board would not be authorized or have enhanced authority to alter any existing water rights beyond the Board's power to do so prior to enactment.

ARGUMENTS IN SUPPORT

Legislation has been developed by the Governor's Office to implement the new "Making Water Conservation a California Way of Life" plan, released by the Administration in final form on April 7 in response to the Governor's Executive Order B-37-16. The proposed legislation by the Administration is in the form of budget trailer bill language. It is widely viewed within the water community as taking away local control from water agencies, vesting the State Water Resources Control Board with too much authority, and placing significant and permanent new burdens on local water suppliers.

AB 968 will be the vehicle to carry the water use efficiency targets language developed by ACWA's State Legislative Committee in response to the Governor's Executive Order B-37-16 and the state's new water conservation framework. Bill language has been drafted by the ACWA Urban Long-Term Conservation Work Group, comprised of more than 50 ACWA member agency representatives.

ARGUMENTS IN OPPOSITION

No formal opposition has been registered at this point.

COMMENTS

Many water suppliers are expected to take actions of support (some have already put these actions in motion), in part because of concerns about the Governor's budget trailer bill legislation.

DETAILED REPORT

The proposed text of AB 968 is attached.

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 968

Introduced by Assembly Member Rubio

February 16, 2017

An act to amend ~~Section 10608 of~~, *Sections 10608, 10608.4, 10608.8, 10608.12, 10608.20, 10608.24 of*, to add *Sections 10608.25, 10608.46, and 10608.47 to*, and to add and repeal Section 10608.45 of, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 968, as amended, Rubio. Urban ~~retail~~ water use: water ~~efficiency~~ ~~targets~~. *efficiency*.

Existing law requires the state to achieve a 20% reduction in urban per capita water use on or before December 31, 2020, and to make incremental progress toward that state target by reducing urban per capita water use by at least 10% on or before December 31, 2015. *Existing law requires each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements.*

~~This bill would require the Department of Water Resources to submit to the Legislature by December 31, 2018, a report that states preliminary water efficiency targets for 2025 for each of the state's hydrologic regions with per capita daily water use targets based on and considering specified factors. The bill would require the department to consult with a representative task force with members designated by the department by July 1, 2018. bill would revise the definitions of "gross water use"~~

and “recycled water” for these purposes. The bill would require the Department of Water Resources to reconvene its Urban Stakeholder Committee by April 1, 2018, composed as specified, and would require, by July 1, 2019, the department, in consultation with the committee, to develop certain methodologies. The bill would require the committee, by January 1, 2020, and every 5 years thereafter, to develop a report to provide information and recommendations to the department and the Legislature about new demand management measures, technologies, and approaches, and would require the department to review the committee report and include the department’s recommendations and comments in a final report to the Legislature. The bill would require, by December 31, 2025, the committee, in consultation with the department and the State Water Resources Control Board, to submit a report to the Legislature recommending for potential adjustments to water efficiency targets and commercial, industrial, and institutional performance measures, as defined.

The bill would require the department, in consultation with the board, to convene a commercial, industrial, and institutional water use efficiency task force by July 1, 2018, to recommend appropriate water efficiency measures for various segments of the commercial, industrial, and institutional water use sector and would require the task force, by December 31, 2019, in consultation with the department and the board, to submit a specified report to the Legislature.

Existing law, the Urban Water Management Planning Act, requires every public and private urban water supplier that directly or indirectly provides water for municipal purposes to prepare and adopt an urban water management plan and to update its plan once every 5 years on or before December 31 in years ending in 5 and zero, except as specified.

This bill would require each urban retail water supplier to develop a water efficiency target, as defined, for 2025 in its 2020 urban water management plan required to be submitted by July 1, 2021, and to achieve that target. The bill would authorize an urban retail water supplier to adjust and update the water efficiency target, as appropriate, when the supplier reports its compliance in achieving the water efficiency targets and its implementation of the identified performance measures in its 2025 urban water management plan required to be submitted by July 1, 2026. The bill would require each urban retail water supplier to meet its adjusted 2025 water efficiency target by

December 31, 2025, unless the supplier makes a certain report to the department.

The bill would require the department, by July 1, 2019, to provide to urban retail water suppliers in electronic form a database of validated aerial imagery and measured irrigable area, as specified, and to conduct a statistically valid review of the accuracy of the information in the database before providing the database to an urban retail water supplier. The bill would extend the deadline for an urban retail water supplier to submit its urban water management plan if the department does not release the database by July 1, 2019, as prescribed.

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

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

1 SECTION 1. Section 10608 of the Water Code is amended to
2 read:
3 10608. The Legislature finds and declares all of the following:
4 (a) Water is a public resource that the California Constitution
5 protects against waste and unreasonable use.
6 (b) Growing population, climate change, and the need to protect
7 and grow California's economy while protecting and restoring our
8 fish and wildlife habitats make it essential that the state manage
9 its water resources as efficiently as possible.
10 (c) Diverse regional water supply portfolios will increase water
11 supply reliability and reduce dependence on the Delta.
12 (d) Reduced water use through long-term water use efficiency
13 and conservation provides significant energy and environmental
14 benefits, and can help protect water quality, improve streamflows,
15 and reduce greenhouse gas emissions.
16 (e) The success of state and local water use efficiency programs
17 ~~to increase efficiency of water use~~ is best determined on the basis
18 of measurable outcomes related to water use or efficiency.
19 (f) Strengthening local and regional drought resilience is
20 essential to increasing water supply reliability and the sustainable
21 management of the state's water resources.
22 (g) Improvements in technology, infrastructure, and management
23 practices offer the potential for increasing water efficiency in
24 California over time, providing an essential water management

1 tool to meet the need for water for urban, agricultural, and
2 environmental uses.

3 (h) The Governor has called for implementation of the
4 comprehensive California Water Action Plan.

5 (i) The factors used to formulate long-term water use efficiency
6 targets can vary significantly from location to location based on
7 factors including ~~weather~~, *climate*, patterns of urban and suburban
8 development, water supplies, and past efforts to enhance water
9 use efficiency. Therefore, it is necessary to *plan for and* implement
10 water use efficiency measures at the regional and local level to
11 reflect and best meet the water supply needs of each community
12 and achieve effective water ~~shortage contingency~~ planning and
13 management.

14 (j) Per capita water use is one measure of ~~a water provider's an~~
15 *urban water supplier's* efforts to ~~reduce urban water use~~ *improve*
16 *water use efficiency* within its service area. However, per capita
17 water use is less useful for measuring relative water use efficiency
18 between different water providers. Differences in ~~weather~~, *climate*,
19 historical patterns of urban and suburban development, and density
20 of housing in a particular location need to be considered when
21 assessing per capita water use as a measure of efficiency.

22 SEC. 2. ~~Section 10608.45 is added to the Water Code, to read:~~

23 ~~10608.45. (a) By December 31, 2018, the department shall~~
24 ~~submit to the Legislature a report that states preliminary water~~
25 ~~efficiency targets for 2025 for each of the state's hydrologic~~
26 ~~regions. The report shall include per capita daily water use targets~~
27 ~~based on, and the department shall explain in the report how it~~
28 ~~considered, factors that include, but are not limited to, all of the~~
29 ~~following:~~

30 ~~(1) A uniform statewide standard for per capita indoor water~~
31 ~~use, based on current conditions affecting indoor water use.~~

32 ~~(2) Outdoor water use standards that reflect the variable climates,~~
33 ~~land use densities, and age of building stock within urban retail~~
34 ~~water suppliers' service areas in each hydrologic region.~~

35 ~~(3) The amount of reductions in water use in each hydrologic~~
36 ~~region that can be expected as a result of a normal rate of~~
37 ~~improvement in plumbing facilities and the development of new~~
38 ~~residential, commercial, and other structures that reflect~~
39 ~~state-of-the-art water efficiency methods and facilities.~~

1 ~~(4) The regional target determination methodology used in the~~
2 ~~state's 20x2020 Water Conservation Plan (dated February 2010):~~

3 ~~(b) In developing the report pursuant to subdivision (a), the~~
4 ~~department shall consult with a representative task force consisting~~
5 ~~of academic experts, urban retail water suppliers representing each~~
6 ~~of the state's hydrologic regions, economic development interests,~~
7 ~~business community representatives, environmental organizations,~~
8 ~~commercial water users, industrial water users, and institutional~~
9 ~~water users. The department shall designate the task force's~~
10 ~~members by July 1, 2018.~~

11 ~~(c) (1) A report to be submitted pursuant to subdivision (a)~~
12 ~~shall be submitted in compliance with Section 9795 of the~~
13 ~~Government Code.~~

14 ~~(2) Pursuant to Section 10231.5 of the Government Code, this~~
15 ~~section is repealed on January 1, 2023.~~

16 ~~SEC. 2. Section 10608.4 of the Water Code is amended to read:~~

17 ~~10608.4. It is the intent of the Legislature, by the enactment~~
18 ~~of this part, to do all of the following:~~

19 ~~(a) Require all water suppliers to increase the efficiency of~~
20 ~~promote the efficient use of this essential resource.~~

21 ~~(b) Establish a long-term framework to meet the state targets~~
22 ~~for urban water conservation identified in this part and called for~~
23 ~~by the Governor. use efficiency.~~

24 ~~(c) Measure increased efficiency of urban water use on a per~~
25 ~~capita basis.~~

26 ~~(d) Establish a method or methods for urban retail water~~
27 ~~suppliers to determine targets for achieving increased water use~~
28 ~~efficiency by the year 2020, in accordance with the Governor's~~
29 ~~goal of a 20-percent reduction.~~

30 ~~(e)~~

31 ~~(c) Establish consistent water use efficiency planning and~~
32 ~~implementation standards for urban water suppliers and agricultural~~
33 ~~water suppliers.~~

34 ~~(f)~~

35 ~~(d) Promote urban water conservation standards that are use~~
36 ~~efficiency that is consistent with the California Urban Water~~
37 ~~Conservation Council's adopted best management practices and~~
38 ~~the requirements for demand management in Section 10631.~~

39 ~~(g)~~

1 (e) Establish standards that recognize and provide credit to water
2 suppliers that made substantial capital investments in urban water
3 ~~conservation~~ *use efficiency, sustainable drought resilient supplies,*
4 *and emergency supplies* since the drought of the early 1990s.

5 ~~(h)~~
6 (f) Recognize and account for the investment of urban retail
7 water suppliers in providing recycled water for ~~beneficial uses.~~
8 *both potable and nonpotable beneficial uses, and the need for*
9 *greater investment in water recycling and other sustainable*
10 *drought-resilient supplies.*

11 (g) *Recognize that water recycling is an efficient use of water*
12 *and the application of recycled water in landscape irrigation is*
13 *extensively regulated, which ensures its efficient use.*

14 ~~(i)~~
15 (h) Require implementation of specified efficient water
16 management practices for agricultural water suppliers.

17 ~~(j)~~
18 (i) Support the economic productivity of California's
19 agricultural, commercial, and industrial sectors.

20 ~~(k)~~
21 (j) Advance regional water resources management.
22 (k) *Empower water suppliers to utilize local and regional water*
23 *use efficiency measures that reflect their unique water supply and*
24 *demand circumstances that best meet the needs of their individual*
25 *communities.*

26 (l) *Ensure that a water supplier retains the same legal access*
27 *to its water supplies as the water supplier possessed before January*
28 *1, 2018, as provided under law to enhance local and regional*
29 *water supply reliability and drought resilience as well as to*
30 *voluntarily contribute to water supply reliability in other regions*
31 *of the state, as appropriate under law.*

32 SEC. 3. Section 10608.8 of the Water Code is amended to read:
33 10608.8. (a) (1) *Nothing in this part alters existing water*
34 *rights law or authorizes or enhances the authority of the board to*
35 *alter any existing water rights beyond its powers to do so before*
36 *January 1, 2018.*

37 (2) Water use efficiency measures adopted and implemented
38 pursuant to this part or Part 2.8 (commencing with Section 10800)
39 are water conservation measures subject to the protections provided
40 under Section 1011.

1 ~~(2)~~

2 (3) Because an urban agency is not required to meet its urban
3 water use target until 2020 pursuant to subdivision (b) of Section
4 10608.24, an urban retail water supplier's failure to meet those
5 targets shall not establish a violation of law for purposes of any
6 state administrative or judicial proceeding prior to January 1, 2021.
7 Nothing in this paragraph limits the use of data reported to the
8 department or the board in litigation or an administrative
9 proceeding. This paragraph shall become inoperative on January
10 1, 2021.

11 (4) *Because an urban agency is not required to meet its urban*
12 *water efficiency target until 2025 pursuant to subdivision (d) of*
13 *Section 10608.25, an urban retail water supplier's failure to meet*
14 *that target shall not establish a violation of law for purposes of*
15 *any state administrative or judicial proceeding before January 1,*
16 *2026. Nothing in this paragraph limits the use of data reported to*
17 *the department or the board in litigation or an administrative*
18 *proceeding.*

19 ~~(3)~~

20 (5) To the extent feasible, the department and the board shall
21 provide for the use of water conservation reports required under
22 this part to meet the requirements of Section 1011 for water
23 conservation reporting.

24 (b) This part does not limit or otherwise affect the application
25 of Chapter 3.5 (commencing with Section 11340), Chapter 4
26 (commencing with Section 11370), Chapter 4.5 (commencing with
27 Section 11400), and Chapter 5 (commencing with Section 11500)
28 of Part 1 of Division 3 of Title 2 of the Government Code.

29 (c) This part does not require a reduction in the total water used
30 in the agricultural or urban sectors, because other factors, including,
31 but not limited to, changes in agricultural economics or population
32 growth may have greater effects on water use. This part does not
33 limit the economic productivity of California's agricultural,
34 commercial, or industrial sectors.

35 (d) The requirements of this part do not apply to an agricultural
36 water supplier that is a party to the Quantification Settlement
37 Agreement, as defined in subdivision (a) of Section 1 of Chapter
38 617 of the Statutes of 2002, during the period within which the
39 Quantification Settlement Agreement remains in effect. After the
40 expiration of the Quantification Settlement Agreement, to the

1 extent conservation water projects implemented as part of the
2 Quantification Settlement Agreement remain in effect, the
3 conserved water created as part of those projects shall be credited
4 against the obligations of the agricultural water supplier pursuant
5 to this part.

6 *SEC. 4. Section 10608.12 of the Water Code is amended to*
7 *read:*

8 10608.12. Unless the context otherwise requires, the following
9 definitions govern the construction of this part:

10 (a) "Agricultural water supplier" means a water supplier, either
11 publicly or privately owned, providing water to 10,000 or more
12 irrigated acres, excluding recycled water. "Agricultural water
13 supplier" includes a supplier or contractor for water, regardless of
14 the basis of right, that distributes or sells water for ultimate resale
15 to customers. "Agricultural water supplier" does not include the
16 department.

17 (b) "Base daily per capita water use" means any of the
18 following:

19 (1) The urban retail water supplier's estimate of its average
20 gross water use, reported in gallons per capita per day and
21 calculated over a continuous 10-year period ending no earlier than
22 December 31, 2004, and no later than December 31, 2010.

23 (2) For an urban retail water supplier that meets at least 10
24 percent of its 2008 measured retail water demand through recycled
25 water that is delivered within the service area of an urban retail
26 water supplier or its urban wholesale water supplier, the urban
27 retail water supplier may extend the calculation described in
28 paragraph (1) up to an additional five years to a maximum of a
29 continuous 15-year period ending no earlier than December 31,
30 2004, and no later than December 31, 2010.

31 (3) For the purposes of Section 10608.22, the urban retail water
32 supplier's estimate of its average gross water use, reported in
33 gallons per capita per day and calculated over a continuous
34 five-year period ending no earlier than December 31, 2007, and
35 no later than December 31, 2010.

36 (c) "Baseline commercial, industrial, and institutional water
37 use" means an urban retail water supplier's base daily per capita
38 water use for commercial, industrial, and institutional users.

39 (d) "Commercial water user" means a water user that provides
40 or distributes a product or service.

1 (e) “Compliance daily per capita water use” means the gross
2 water use during the final year of the reporting period, reported in
3 gallons per capita per day.

4 (f) “Disadvantaged community” means a community with an
5 annual median household income that is less than 80 percent of
6 the statewide annual median household income.

7 (g) “Gross water use” means the total volume of water, whether
8 treated or untreated, entering the distribution system of an urban
9 retail water supplier, *as the distribution system is defined by the*
10 *urban retail water supplier*, excluding all of the following:

11 (1) Recycled water that is delivered within the service area of
12 an urban retail water supplier or its urban wholesale water-supplier.
13 *supplier, or recycled water used to augment water supplies,*
14 *including, but not limited to, recycled water used to augment a*
15 *surface water reservoir or recycled water percolated or injected*
16 *into a groundwater basin for the purposes of augmenting the*
17 *common groundwater supply and then extracted by an urban retail*
18 *water supplier.*

19 (2) The net volume of water that the urban retail water supplier
20 places into long-term storage.

21 (3) The volume of water the urban retail water supplier conveys
22 for use by another urban water supplier.

23 (4) The volume of water ~~delivered for agricultural use~~, *the urban*
24 *retail water supplier delivers for commercial or noncommercial*
25 *agricultural purposes*, except as otherwise provided in subdivision
26 (f) of Section 10608.24.

27 (h) “Industrial water user” means a water user that is primarily
28 a manufacturer or processor of materials as defined by the North
29 American Industry Classification System code sectors 31 to 33,
30 inclusive, or an entity that is a water user primarily engaged in
31 research and development.

32 (i) “Institutional water user” means a water user dedicated to
33 public service. This type of user includes, among other users,
34 higher education institutions, schools, courts, churches, hospitals,
35 government facilities, and nonprofit research institutions.

36 (j) “Interim urban water use target” means the midpoint between
37 the urban retail water supplier’s base daily per capita water use
38 and the urban retail water supplier’s urban water use target for
39 2020.

(k) “Locally cost effective” means that the present value of the local benefits of implementing an agricultural efficiency water management practice is greater than or equal to the present value of the local cost of implementing that measure.

(l) “Performance measures” means best management practices that improve the efficiency of water use within the commercial, industrial, and institutional sector, including the use of new technologies and improvements in water management as identified in the report developed pursuant to subdivision (b) of Section 10608.45.

(m) “Process water” means water used for producing a product or product content or water used for research and development, including, but not limited to, continuous manufacturing processes, water used for testing and maintaining equipment used in producing a product or product content, and water used in combined heat and power facilities used in producing a product or product content. Process water does not mean incidental water uses not related to the production of a product or product content, including, but not limited to, water used for restrooms, landscaping, air conditioning, heating, kitchens, and laundry.

(n) “Recycled water” means recycled water, as defined in subdivision (n) of Section 13050, that is used to offset potable demand, ~~including~~ *including, but not limited to, recycled water supplied for nonpotable reuse, recycled water supplied for the uses identified and defined in Section 13561, or recycled water supplied for direct use and indirect potable reuse, that that, where applicable, meets the following requirements, where applicable: for reservoir augmentation and groundwater recharge, including recharge through spreading basins or injections:*

~~(1) For groundwater recharge, including recharge through spreading basins, water supplies that are all of the following:~~

~~(A) Metered.~~

~~(1) The use of the water supply is metered.~~

~~(B)~~

~~(2) Developed through planned investment by the urban water supplier supplier, a water replenishment district, or a wastewater treatment agency.~~

~~(C)~~

1 (3) Treated to a minimum tertiary level.

2 ~~(D)~~

3 (4) Delivered within the service area of an urban retail water
4 supplier or its urban wholesale water supplier that helps an urban
5 retail water supplier meet its urban water use target.

6 ~~(2) For reservoir augmentation, water supplies that meet the~~
7 ~~criteria of paragraph (1) and are conveyed through a distribution~~
8 ~~system constructed specifically for recycled water.~~

9 ~~(n)~~

10 (o) “Regional water resources management” means sources of
11 supply resulting from watershed-based planning for sustainable
12 local water reliability or any of the following alternative sources
13 of water:

14 (1) The capture and reuse of stormwater or rainwater.

15 (2) The use of recycled water.

16 (3) The desalination of brackish groundwater.

17 (4) The conjunctive use of surface water and groundwater in a
18 manner that is consistent with the safe yield of the groundwater
19 basin.

20 ~~(o)~~

21 (p) “Reporting period” means the years for which an urban retail
22 water supplier reports compliance with the urban water use targets.

23 ~~(p)~~

24 (q) “Urban retail water supplier” means a water supplier, either
25 publicly or privately owned, that directly provides potable
26 municipal water to more than 3,000 end users or that supplies more
27 than 3,000 acre-feet of potable water annually at retail for
28 municipal purposes.

29 ~~(q)~~

30 (r) “Urban water use target” means the urban retail water
31 supplier’s targeted future daily per capita water use.

32 ~~(r)~~

33 (s) “Urban wholesale water supplier,” means a water supplier,
34 either publicly or privately owned, that provides more than 3,000
35 acre-feet of water annually at wholesale for potable municipal
36 purposes.

37 (t) “Water efficiency target” means the target established by
38 an urban retail water supplier pursuant to Section 10608.25.

39 (u) “Water loss” means the difference between the potable
40 distribution system input volume and authorized consumption as

1 *consistent with the American Water Works Association's third*
2 *edition of Water Audits and Loss Control Programs, Manual M36*
3 *and subsequent editions in accordance with Section 10608.34.*

4 SEC. 5. *Section 10608.20 of the Water Code is amended to*
5 *read:*

6 10608.20. (a) (1) Each urban retail water supplier shall
7 develop urban water use targets and an interim urban water use
8 target by July 1, 2011. Urban retail water suppliers may elect to
9 determine and report progress toward achieving these targets on
10 an individual or regional basis, as provided in subdivision (a) of
11 Section 10608.28, and may determine the targets on a fiscal year
12 or calendar year basis.

13 (2) It is the intent of the Legislature that the urban water use
14 targets described in paragraph (1) cumulatively result in a
15 20-percent reduction from the baseline daily per capita water use
16 by December 31, 2020.

17 (b) An urban retail water supplier shall adopt one of the
18 following methods for determining its 2020 urban water use target
19 pursuant to subdivision (a):

20 (1) Eighty percent of the urban retail water supplier's ~~baseline~~
21 *base* per capita daily water use.

22 (2) The per capita daily water use that is estimated using the
23 sum of the following performance standards:

24 (A) For indoor residential water use, 55 gallons per capita daily
25 water use as a provisional standard. Upon completion of the
26 department's 2016 report to the Legislature pursuant to Section
27 10608.42, this standard may be adjusted by the Legislature by
28 statute.

29 (B) For landscape irrigated through dedicated or residential
30 meters or connections, water efficiency equivalent to the standards
31 of the Model Water Efficient Landscape Ordinance set forth in
32 Chapter 2.7 (commencing with Section 490) of Division 2 of Title
33 23 of the California Code of Regulations, as in effect the later of
34 the year of the landscape's installation or 1992. An urban retail
35 water supplier using the approach specified in this subparagraph
36 shall use satellite imagery, site visits, or other best available
37 technology to develop an accurate estimate of landscaped areas.

38 (C) For commercial, industrial, and institutional uses, a
39 10-percent reduction in water use from the baseline commercial,
40 industrial, and institutional water use by 2020.

1 (3) Ninety-five percent of the applicable state hydrologic region
2 target, as set forth in the state's draft 20x2020 Water Conservation
3 Plan (dated April 30, 2009). If the service area of an urban water
4 supplier includes more than one hydrologic region, the supplier
5 shall apportion its service area to each region based on population
6 or area.

7 (4) A method that shall be identified and developed by the
8 department, through a public process, and reported to the
9 Legislature no later than December 31, 2010. The method
10 developed by the department shall identify per capita targets that
11 cumulatively result in a statewide 20-percent reduction in urban
12 daily per capita water use by December 31, 2020. In developing
13 urban daily per capita 2020 water use targets, the department shall
14 do all of the following:

15 (A) Consider climatic differences within the state.

16 (B) Consider population density differences within the state.

17 (C) Provide flexibility to communities and regions in meeting
18 the targets.

19 (D) Consider different levels of per capita water use according
20 to plant water needs in different regions.

21 (E) Consider different levels of commercial, industrial, and
22 institutional water use in different regions of the state.

23 (F) Avoid placing an undue hardship on communities that have
24 implemented conservation measures or taken actions to keep per
25 capita water use low.

26 (c) If the department adopts a regulation pursuant to paragraph
27 (4) of subdivision (b) that results in a requirement that an urban
28 retail water supplier achieve a reduction in daily per capita water
29 use that is greater than 20 percent by December 31, 2020, an urban
30 retail water supplier that adopted the method described in paragraph
31 (4) of subdivision (b) may limit its urban water use target to a
32 reduction of not more than 20 percent by December 31, 2020, by
33 adopting the method described in paragraph (1) of subdivision (b).

34 (d) The department shall update the method described in
35 paragraph (4) of subdivision (b) and report to the Legislature by
36 December 31, 2014. An urban retail water supplier that adopted
37 the method described in paragraph (4) of subdivision (b) may adopt
38 a new urban daily per capita water use target pursuant to this
39 updated method.

(e) An urban retail water supplier shall include in its urban water management plan due in 2010 pursuant to Part 2.6 (commencing with Section 10610) the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.

(f) When calculating per capita values for the purposes of this chapter, an urban retail water supplier shall determine population using *a combination of* federal, state, and local population reports and projections.

(g) An urban retail water supplier may update its 2020 urban water use target in its 2015 urban water management plan required pursuant to Part 2.6 (commencing with Section 10610).

(h) (1) The department, through a public process and in consultation with the California Urban Water Conservation Council, shall develop technical methodologies and criteria for the consistent implementation of this part, including, but not limited to, both of the following:

(A) Methodologies for calculating base daily per capita water use, baseline commercial, industrial, and institutional water use, compliance daily per capita water use, gross water use, service area population, indoor residential water use, and landscaped area water use.

(B) Criteria for adjustments pursuant to subdivisions (d) and (e) of Section 10608.24.

(2) The department shall post the methodologies and criteria developed pursuant to this subdivision on its Internet Web site, and make written copies available, by October 1, 2010. An urban retail water supplier shall use the methods developed by the department in compliance with this part.

(i) (1) The department shall adopt regulations for implementation of the provisions relating to process water in accordance with subdivision (l) of Section 10608.12, subdivision (e) of Section 10608.24, and subdivision (d) of Section 10608.26.

(2) The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency

1 regulation pursuant to this subdivision, the department shall not
2 request approval from the Office of Administrative Law to readopt
3 the regulation as an emergency regulation pursuant to Section
4 11346.1 of the Government Code.

5 (j) (1) An urban retail water supplier is granted an extension
6 to July 1, 2011, for adoption of an urban water management plan
7 pursuant to Part 2.6 (commencing with Section 10610) due in 2010
8 to allow the use of technical methodologies developed by the
9 department pursuant to paragraph (4) of subdivision (b) and
10 subdivision (h). An urban retail water supplier that adopts an urban
11 water management plan due in 2010 that does not use the
12 methodologies developed by the department pursuant to
13 subdivision (h) shall amend the plan by July 1, 2011, to comply
14 with this part.

15 (2) An urban wholesale water supplier whose urban water
16 management plan prepared pursuant to Part 2.6 (commencing with
17 Section 10610) was due and not submitted in 2010 is granted an
18 extension to July 1, 2011, to permit coordination between an urban
19 wholesale water supplier and urban retail water suppliers.

20 *SEC. 6. Section 10608.24 of the Water Code is amended to*
21 *read:*

22 10608.24. (a) Each urban retail water supplier shall meet its
23 interim urban water use target by December 31, 2015.

24 (b) Each urban retail water supplier shall meet its 2020 urban
25 water use target by December 31, 2020.

26 (c) An urban retail water supplier's compliance daily per capita
27 water use shall be the measure of progress toward achievement of
28 its 2020 urban water use target.

29 (d) (1) When determining compliance daily per capita water
30 use, an urban retail water supplier may consider the following
31 factors:

32 (A) Differences in evapotranspiration and rainfall in the baseline
33 period compared to the compliance reporting period.

34 (B) Substantial changes to commercial or industrial water use
35 resulting from increased business output and economic
36 development that have occurred during the reporting period.

37 (C) Substantial changes to institutional water use resulting from
38 fire suppression services or other extraordinary events, or from
39 new or expanded operations, that have occurred during the
40 reporting period.

(2) If the urban retail water supplier elects to adjust its estimate of compliance daily per capita water use due to one or more of the factors described in paragraph (1), it shall provide the basis for, and data supporting, the adjustment in the report required by Section 10608.40.

(e) When developing the 2020 urban water use target pursuant to Section 10608.20, an urban retail water supplier that has a substantial percentage of industrial water use in its service area may exclude process water from the calculation of gross water use to avoid a disproportionate burden on another customer sector.

(f) (1) An urban retail water supplier that includes agricultural water use in an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) may include the agricultural water use in determining gross water use. An urban retail water supplier that includes agricultural water use in determining gross water use and develops its urban water use target pursuant to paragraph (2) of subdivision (b) of Section 10608.20 shall use a water efficient standard for agricultural irrigation of 100 percent of reference evapotranspiration multiplied by the crop coefficient for irrigated acres.

(2) An urban retail water supplier, that is also an agricultural water supplier, is not subject to the requirements of Chapter 4 (commencing with Section 10608.48), if the agricultural water use is incorporated into its urban water use target pursuant to paragraph (1).

SEC. 7. Section 10608.25 is added to the Water Code, to read: 10608.25. (a) After December 31, 2020, an urban retail water supplier shall achieve a water efficiency target as provided for in this section.

(b) Each urban retail water supplier shall develop a water efficiency target for 2025 in its 2020 urban water management plan required to be submitted by July 1, 2021, pursuant to Section 10621. An urban retail water supplier may determine the water efficiency target on a fiscal year or calendar year basis. An urban retail water supplier may adjust and update the water efficiency target, as appropriate, based upon population growth, changes in irrigable landscape acreage, and other changes that affect water use when the supplier reports its compliance in achieving the water efficiency targets and its implementation of the identified performance measures in its 2025 urban water management plan

1 *required to be submitted by July 1, 2026, pursuant to Section*
2 *10621.*

3 *(c) An urban retail water supplier shall adopt one of the*
4 *following methods for determining its water efficiency target*
5 *pursuant to subdivision (b):*

6 *(1) Seventy-five percent of the urban retail water supplier's*
7 *base daily per capita water use calculated using the methodology*
8 *developed by the department pursuant to Section 10608.20.*

9 *(2) (A) Establishment of a retail-level water efficiency target*
10 *that is the sum of the following:*

11 *(i) The residential population multiplied by 55 gallons of water*
12 *use per person per day.*

13 *(ii) For irrigable landscape served by a residential or dedicated*
14 *irrigation meter, an estimate of total irrigation demands within*
15 *the supplier's service area, based on the following factors:*

16 *(I) Evapotranspiration adjustment factor of 1.0 for parcels*
17 *developed before 1992 and for special landscape areas.*

18 *(II) Evapotranspiration adjustment factor of 0.8 for parcels*
19 *developed between January 1, 1992, and December 31, 2009.*

20 *(III) Evapotranspiration adjustment factor of 0.7 for parcels*
21 *developed between January 1, 2010, and December 31, 2015.*

22 *(IV) Evapotranspiration adjustment factor of 0.55 for residential*
23 *parcels developed after January 1, 2016.*

24 *(V) evapotranspiration adjustment factor of 0.45 for commercial*
25 *parcels developed after January 1, 2016.*

26 *(VI) Parcels in commercial or noncommercial agricultural use*
27 *may be included by the urban retail water supplier, at its sole*
28 *discretion, using an evapotranspiration factor of 1.0 in the*
29 *calculation of the water use efficiency target or in the calculation*
30 *for compliance of the target.*

31 *(iii) A volume of water to account for the variances taken by*
32 *the water supplier due to unique situations within the water*
33 *supplier's service area and developed pursuant to subdivision (f).*

34 *(B) An urban retail water supplier that adopts the method*
35 *described in subparagraph (A) for determining its water efficiency*
36 *target shall identify proposed performance measures, as*
37 *appropriate, for efficient water use by its commercial, industrial,*
38 *and institutional customers consistent with the recommendations*
39 *identified in the report required pursuant to subdivision (b) of*

1 Section 10608.45 in the water supplier's 2020 urban water
2 management plan.

3 (3) Ninety percent of the applicable hydrologic region target,
4 as set forth in the state's 20x2020 Water Conservation Plan, dated
5 February 2010. If the service area of an urban retail water supplier
6 includes more than one hydrologic region, the supplier shall
7 apportion its service area to each region based on population or
8 area.

9 (d) Each urban retail water supplier shall meet its adjusted
10 2025 water efficiency targets by December 31, 2025, unless the
11 supplier reports to the department that economic or hydrologic
12 conditions beyond the water supplier's control rendered it
13 impossible for the water supplier to do so. An urban retail water
14 supplier may elect to determine and report progress toward
15 achieving its 2025 water efficiency target on an individual or
16 regional basis, as provided in subdivision (a) of Section 10608.28.
17 An urban retail water supplier shall report on its compliance with
18 this section in its 2025 urban water management plan required to
19 be submitted by July 1, 2026, pursuant to Section 10621.

20 (e) An urban retail water supplier shall base its adjusted water
21 efficiency target and compliance with that adjusted target on the
22 best available information concerning population, irrigable
23 landscape acreage, and other factors that affect water use within
24 its service area. An urban retail water supplier shall calculate its
25 compliance with subdivision (d) based on the method by which it
26 set its water efficiency target, as follows:

27 (1) An urban retail water supplier with a water efficiency target
28 determined pursuant to paragraph (1) of subdivision (c) shall
29 calculate its compliance with subdivision (d) by comparing the
30 adjusted water efficiency target with the urban retail water
31 supplier's compliance daily per capita water use.

32 (2) An urban retail water supplier with a water efficiency target
33 determined pursuant to paragraph (2) of subdivision (c) shall
34 calculate its compliance with subdivision (d) by comparing the
35 water efficiency target with the total volume of gross water use
36 measured through residential and dedicated irrigation meters
37 during the final year of the reporting period. The urban retail
38 water supplier shall include in its report on compliance with
39 subdivision (d) a report on the urban retail water supplier's
40 implementation of the performance measures for efficiency

1 commercial, industrial, and institutional water use identified in
2 its urban water management plan. If an urban retail water supplier
3 includes parcels in agricultural use in its water efficiency target,
4 the urban retail water supplier shall include water use for those
5 parcels in its compliance calculation.

6 (3) An urban retail water supplier with a water efficiency target
7 determined pursuant to paragraph (3) of subdivision (c) shall
8 calculate its compliance with subdivision (d) by comparing the
9 adjusted water efficiency target with the urban retail water
10 supplier's compliance daily per capita water use.

11 (4) Water use or loss caused by conditions of disaster or extreme
12 peril to the safety of persons and property, including, but not
13 limited to, conditions, whether natural or human caused, of fire,
14 flood, storm, drought, epidemic, riot, earthquake, or other
15 condition, shall be excluded from the calculation of compliance
16 with the water efficiency target.

17 (5) The deadline for an urban retail water supplier to submit
18 its plan pursuant to subdivision (e) of Section 10621 shall be
19 extended if the department does not release the final database
20 pursuant to Section 10608.47 on or before July 1, 2019. The
21 extension shall equal the length of time between July 1, 2019 and
22 the date of the department's release of the final database.

23 (6) Each urban retail water supplier shall have the discretion
24 to achieve its water efficiency target under this section and to
25 design and utilize any rate structure in any manner consistent with
26 that supplier's legal authority.

27 (7) Each urban retail water supplier shall have the discretion
28 to measure progress toward achieving its water efficiency target
29 under this section by considering the factors described in
30 subdivisions (d) to (f), inclusive, of Section 10608.24.

31 (8) Notwithstanding the method used by an urban retail water
32 supplier to calculate compliance with subdivision (c), each urban
33 retail water supplier shall address water loss within its service
34 area pursuant to Section 10608.34.

35 (f) The department, in consultation with the Urban Stakeholder
36 Committee, shall develop all of the following and any other factors
37 as may be identified by the committee:

38 (1) Standardized variance methodologies for all of the following:

39 (A) Livestock.

40 (B) Swamp coolers.

- 1 (C) Significant transient population increases.
- 2 (D) Construction water for soil compaction and dust control.
- 3 (E) Potable water use to supplement ponds and lakes to sustain
- 4 wildlife.
- 5 (F) Vegetation irrigated for fire protection.
- 6 (G) Landscapes irrigated with recycled water having high levels
- 7 of total dissolved solids.
- 8 (H) Other water quality concerns.
- 9 (2) A methodology to calculate the irrigable area associated
- 10 with special landscape areas by aerial imagery or date of parcel
- 11 establishment so that an urban retail water supplier may develop
- 12 appropriate water efficiency targets as described in paragraph
- 13 (2) of subdivision (c).
- 14 (3) A process for the submission of supporting documentation
- 15 for other variances that shall be included into the calculation of
- 16 the urban retail water supplier's water efficiency target as
- 17 described in paragraph (2) of subdivision (c).
- 18 (g) For purposes of this section, "special landscape area"
- 19 means an area of the landscape dedicated solely to edible plants,
- 20 recreational areas, areas irrigated with recycled water, or water
- 21 features using recycled water designed within and having the same
- 22 evapotranspiration adjustment factor as contained in the model
- 23 water efficient landscape ordinance set forth in Chapter 2.7
- 24 (commencing with Section 490) of Division 2 of Title 23 of the
- 25 California Code of Regulations, adopted on September 15, 2015.
- 26 SEC. 8. Section 10608.45 is added to the Water Code, to read:
- 27 10608.45. (a) By July 1, 2018, the department, in consultation
- 28 with the board, shall convene a commercial, industrial, and
- 29 institutional water use efficiency task force to recommend
- 30 appropriate water efficiency measures for various segments of the
- 31 commercial, industrial, and institutional water use sector. The
- 32 task force shall consist of all of the following:
- 33 (1) Urban retail water suppliers, including a broad spectrum
- 34 of commercial, industrial, and institutional customers throughout
- 35 the state and the representation of combined retail water and
- 36 wastewater agencies.
- 37 (2) Urban wholesale water suppliers.
- 38 (3) Academic experts.
- 39 (4) Economic development interests.
- 40 (5) Business community representatives.

1 (6) *Environmental organizations.*

2 (7) *Commercial water users.*

3 (8) *Industrial water users.*

4 (9) *Institutional water users.*

5 (b) *By December 31, 2019, the task force, in consultation with*
6 *the department and the board, shall submit a report to the*
7 *Legislature that shall include, but is not limited to, all of the*
8 *following:*

9 (1) *Recommendations of appropriate performance measures*
10 *for commercial, industrial, or institutional water use that shall*
11 *rely, to the extent appropriate, on the 2013 report to the Legislature*
12 *by the CII Task Force entitled “Water Use Best Management*
13 *Practices” and support the economic productivity of California’s*
14 *commercial, industrial, and institutional sectors.*

15 (2) *Appropriate commercial, industrial, and institutional*
16 *classifications that address significant uses of water and are*
17 *consistent with the classifications and standards developed by the*
18 *North American Industry Classification System published by the*
19 *United States Office of Management and Budget.*

20 (3) *Recommendations for appropriate thresholds by which urban*
21 *water suppliers could require commercial, industrial, and*
22 *institutional water users to participate in audits and the*
23 *development of water management plans.*

24 (4) *An evaluation of feasibility criteria and cost-effectiveness*
25 *of separating mixed-use meters and equivalent technologies and*
26 *recommendations on when separating mixed-use meters should*
27 *not be required.*

28 (c) *Using available funds, the department shall provide technical*
29 *and financial assistance to the task force to enable the completion*
30 *of the report within the required time frame and to assist water*
31 *suppliers and water users to comply with any new requirements*
32 *resulting from implementation of the report recommendations.*

33 (d) (1) *A report to be submitted pursuant to subdivision (b)*
34 *shall be submitted in compliance with Section 9795 of the*
35 *Government Code.*

36 (2) *Pursuant to Section 10231.5 of the Government Code, this*
37 *section is repealed on January 1, 2024.*

38 SEC. 9. *Section 10608.46 is added to the Water Code, to read:*

39 10608.46. (a) *The department shall reconvene its Urban*
40 *Stakeholder Committee by April 1, 2018. The committee shall*

1 consist of a mix of small, medium, and large urban retail water
2 suppliers from throughout the state, including at least one
3 representative from each hydrologic region. The committee shall
4 also include academic experts, urban wholesale water suppliers,
5 business organizations, as well as representation of combined
6 retail water and wastewater agencies.

7 (b) By July 1, 2019, the department shall consult with the
8 committee to develop the methodologies required by subdivision
9 (f) of Section 10608.25.

10 (c) By January 1, 2020, and every five years thereafter, the
11 committee shall develop a report to provide information and
12 recommendations to the department and the Legislature about
13 new demand management measures, technologies, and approaches.
14 The department shall review the committee report and include in
15 the final report to the Legislature the department's
16 recommendations and comments regarding the committee process
17 and the committee's recommendations.

18 (d) By December 31, 2025, the committee, in consultation with
19 the department and the board, shall submit a report to the
20 Legislature recommending for potential adjustments to water
21 efficiency targets and commercial, industrial, and institutional
22 performance measures, consistent with the report provided to the
23 Legislature pursuant to subdivision (b) of Section 10608.45, for
24 implementation no sooner than 2030. If the committee recommends
25 a change in the water efficiency targets or performance measures,
26 the report shall do both of the following:

27 (1) State the technical changes or scientific basis that justifies
28 a change in the targets or performance measures.

29 (2) Evaluate potential unintended consequences created by the
30 proposed changes that could negatively impact California's
31 economy, wastewater infrastructure, or local investments in water
32 infrastructure and supplies, including specific impacts to the
33 amount of recycled water or desalinated water available within
34 the state.

35 (e) Using available funds, the department shall provide technical
36 and financial assistance to the committee to enable the completion
37 of the reports pursuant to this section within the required time
38 frame and assist water suppliers to comply with any new
39 requirements resulting from implementation of the report
40 recommendations.

1 (f) Nothing in this section authorizes any state agency to
2 establish, change, or otherwise modify the water efficiency targets
3 and commercial, industrial, and institutional performance
4 measures established under this chapter.

5 (g) A report to be submitted pursuant to subdivision (c) or (d)
6 shall be submitted in compliance with Section 9795 of the
7 Government Code.

8 SEC. 10. Section 10608.47 is added to the Water Code, to read:

9 10608.47. (a) By July 1, 2019, the department shall provide
10 to urban retail water suppliers, in electronic form, a database of
11 validated aerial imagery and measured irrigable area for all
12 residential, commercial, industrial, and institutional areas within
13 each water supplier's service area. The database shall correlate
14 the relevant irrigable areas with assessor parcels within each
15 water supplier's service area and shall state the year of parcel
16 development. The database shall contain downloadable reference
17 evapotranspiration data with representative climate zones for all
18 urban retail water suppliers. The database's aerial imagery data
19 shall be suitable for determining the appropriate amount of
20 irrigation for a variety of vegetation, including, but not limited to,
21 large trees and irrigable area under native tree canopy. The
22 department shall update the database by December 31, 2025, and
23 every five years thereafter.

24 (b) To the extent consistent with the California Public Records
25 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
26 of Title 1 of the Government Code), the department and all urban
27 retail water suppliers shall maintain the confidentiality of the
28 information in the department's database.

29 (c) Before providing the database to urban retail water
30 suppliers, the department shall conduct a statistically valid review
31 of the accuracy of the information in the database. In conducting
32 this review, the department shall consult with a representative
33 sample of urban retail water suppliers representing each of the
34 state's hydrologic regions.

35 (d) An urban retail water supplier may use its own database of
36 validated aerial imagery, measured irrigable area, and date of
37 parcel development for properties within its service areas for
38 purposes of paragraph (2) of subdivision (c) of Section 10608.25,
39 if the water supplier certifies that its database is of comparable

- 1 *or better quality than the relevant information included in the*
- 2 *department's database.*

O