

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 541 (Allen) – As Amended June 19, 2017

**[Note: This bill was doubled referred to the Assembly Environmental Safety and Toxic Materials Committee and was heard by that Committee as it relates to issues under its jurisdiction.]**

**SENATE VOTE:** 37-2

**SUBJECT:** School facilities: school facility water capture practices

**SUMMARY:** Requires the California Department of Education (CDE), the State Water Resources Control Board (State Water Board), the regional water quality control boards, and the Division of State Architect (DSA) within the Department of General Services to consult and recommend best design and use practices that include school facility storm water and dry weather runoff capture practices that can generally be applied to all new, reconstructed, or altered public schools, including school grounds. Specifically, **this bill:**

- 1) Requires these recommendations to be reported to the Governor and the Legislature on or before January 1, 2019.
- 2) Defines “school facility storm water and dry weather runoff capture practices” as practices to control water pollutants, pollutant loads, and water runoff volume exiting a site to the maximum extent feasible by impervious surfaces through infiltration, evapotranspiration, bioretention, treatment, and rainfall harvest.
- 3) Makes the provisions of the bill inoperative on January 1, 2023.
- 4) Requires the report to be submitted to the Legislature pursuant to the process established in Government Code Section 9795.

**EXISTING LAW:**

- 1) Requires, under the Leroy F. Greene School Facilities Act of 1998, the State Allocation board (SAB) to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.
- 2) Prohibits the SAB from apportioning funds to any school district unless the applicant school district has certified to the SAB that it has obtained the written approval of the CDE that the site selection, and the building plans and specifications, comply with the standards adopted by the CDE.
- 3) Requires the CDE to establish standards for use by a school district in the selection of schoolsites and standards to ensure that the design and construction of school facilities are educationally appropriate and promote school safety.

- 4) Prohibits the SAB from apportioning funds to any school district that has not received approval from the DSA that the project meets Field Act requirements.
- 5) Requires the DSA, under the police power of the state, to supervise the design and construction of any school building or the reconstruction or alteration of or addition to any school building to ensure that plans and specifications comply with existing law and Title 24 regulations.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) The State Water Board estimates a cost of one position and \$140,000 General Fund to comply with the measure, while the CDE indicates a cost of 0.5 positions and \$45,000 General Fund. Workload for the DSA should be minor and absorbable within existing resources.
- 2) Unknown cost pressure on existing school facility bond funds to fund new water capture practices.

**COMMENTS: *Background.*** The construction and modernization of public kindergarten through grade 12 (K-12) facilities are funded by a combination of state and local general obligation (GO) bonds, developer's fees and local assessments such as Mello Roos community facilities districts. California voters have approved \$42.4 billion in state GO bonds since 1998 for K-12 school facilities, including \$7 billion from Proposition 51 passed last November.

The SAB, a ten member body, oversees state bond funds. In order to be eligible for funding, local educational agencies must receive approval from several state agencies, including the CDE, DSA and the Office of Public School Construction, and work with local governmental agencies.

The CDE reviews plans to ensure that the proposed site and facility are safe and meet the educational program of the school. All K-14 proposed public school construction and modernization projects must also receive approval from the DSA, which reviews architectural plans for compliance with the Field Act (seismic safety); fire, life and safety requirements; and access requirements under the Americans with Disability Act. DSA grants approvals based on the requirements specified by Title 24 regulations, also known as the California Building Standards Code, with some exemptions based on the cost of a project.

*This bill* deals with the role of school facilities in capturing storm water and dry weather runoff. The author states, "School sites offer a unique opportunity to help municipalities capture and treat stormwater. A campus can be retrofitted and managed to capture, treat, store, and use rainwater that falls on school grounds and on the surrounding neighborhood. These retrofits, which could include the addition of rain gardens, bioswales infiltration galleries, cisterns, and planting native plants, will also help to improve the environmental quality of the school sites. Adding more greenspace, shade trees, gardens, and natural features will also offer students more healthy environments that have been shown to improve concentration, reduce stress, and stimulate creativity. However, absent standards and best management practices, school districts are often hesitant to partner with cities and counties to locate stormwater projects."

**Storm water.** The United States Environmental Protection Agency describes storm water as the runoff generated when precipitation from rain and snowmelt events flows over land or impervious surfaces without percolating into the ground. Storm water is often considered a

nuisance because it mobilizes pollutants such as trash, chemicals, oils, dirt, and sediment. In most cases, storm water flows directly to water bodies through sewer systems, contributing a major source of pollution to rivers, lakes, and the ocean.

***Storm water regulation.*** The federal Clean Water Act provides the state and regional water boards in California with the authority and framework for regulating storm water discharges under the National Pollutant Discharge Elimination System (NPDES) Permitting Program.

***Municipal separate storm sewer systems (MS4s).*** Polluted storm water runoff is commonly transported through MS4s, and then is often discharged, untreated, into local water bodies. An MS4 is a conveyance or system of conveyances that is owned by a state, city, town, village, or other public entity that discharges to waters of the United States; is designed or used to collect or convey storm water (e.g., storm drains, pipes, ditches); is not a combined sewer; and, is not part of a sewage treatment plant or publicly owned treatment works. To prevent harmful pollutants from being washed or dumped into MS4s, operators are generally required to obtain NPDES permits, known as MS4 permits, and develop storm water management programs.

Larger municipalities (serving between 100,000 to 250,000) are under the jurisdiction of nine regional water control boards. Smaller municipalities (serving under 100,000) and small nontraditional systems, such as military bases, public campuses, prisons, universities and hospital complexes, are under the jurisdiction of the State Water Board. The discharger is required to develop and implement a Storm Water Management Plan/Program with the goal of reducing the discharge of pollutants to the maximum extent practicable. The management programs specify what best management practices will be used to address certain program areas, such as public education and outreach, illicit discharge detection and elimination, construction and post-construction, and good housekeeping for municipal operations.

School districts are currently not required to seek a permit from the State Water Board. However, according to the State Water Board, school districts and community college districts will likely be added to the requirements during the update of regulations, anticipated to be adopted late 2019.

This bill requires the CDE, the State Water Board, regional water quality control boards, and DSA to develop best design and use practices that include school facility storm water and dry weather runoff capture practices that can generally be applied to new, reconstructed, or altered public schools.

***Are best practices already developed? Do best practices need to be specific to school sites?*** The State Water Board has focused on storm water quality management and regulation for more than 20 years. According to a Water Boards fact sheet, “while early regulatory efforts focused on controlling pollutants and implementing best management practices, current regulatory decisions also emphasize holistic strategies that will result in multiple community benefits while concurrently managing pollution. With the focus on storm water as a resource, newer low impact development and green infrastructure techniques are now capitalizing on opportunities to capture storm water runoff and use it for local landscape and agricultural irrigation, and groundwater recharge.” This includes Low Impact Development practices, which the State Water Board identifies as strategies such as bioretention and rain gardens, rooftop gardens, rain barrels and cisterns, permeable pavers, and sidewalk storage. These are strategies that can be

incorporated in any type of development. The California Stormwater Quality Association has also developed best management practices guidebooks that may apply to school facilities.

***Is CDE an appropriate entity to make recommendations?*** While CDE approves proposed school sites and school plans, it does not have expertise in storm water or other design issues. **Staff recommends** removing CDE from the bill.

***Author's amendments.*** The author has proposed amendments to identify the State Water Board as the lead agency to develop and recommend best design and use practices, in consultation with the regional water quality control boards and DSA, and make other clarifying amendments. **Staff recommends** adopting the amendments.

***Sharing the recommendations.*** In order to inform school districts of the recommendations, **staff recommends** requiring the State Water Board and the CDE to post the recommendations on each agency's Internet Web site.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Los Angeles County Division of the League of California Cities (Sponsor)  
California Contract Cities Association  
City of Arcadia  
City of Bradbury  
City of Burbank  
City of Carson  
City of Covina  
City of Glendora  
City of Hermosa Beach  
City of Inglewood  
City of Lakewood  
City of La Mirada  
City of La Verne  
City of Monrovia  
City of Palos Verdes Estates  
City of Pasadena  
City of Rolling Hills Estates  
City of Rosemead  
City of Signal Hill  
City of South Pasadena  
Los Angeles County Business Federation  
League of California Cities  
TreePeople

### **Opposition**

None received

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