

CHAPTER 7.5. WATER RECYCLING ACT OF 1991 [13575. - 13583.]

(Chapter 7.5 added by Stats. 1991, Ch. 187, Sec. 3.)

§ 13575. [Citation; definitions]

(a) This chapter shall be known and may be cited as the Water Recycling Act of 1991.

(b) As used in this chapter, the following terms have the following meanings:

(1) “Customer” means a person or entity that purchases water from a retail water supplier.

(2) “Entity responsible for groundwater replenishment” means any person or entity authorized by statute or court order to manage a groundwater basin and acquire water for groundwater replenishment.

(3) “Recycled water” has the same meaning as defined in subdivision (n) of Section 13050.

(4) “Recycled water producer” means any local public entity that produces recycled water.

(5) “Recycled water wholesaler” means any local public entity that distributes recycled water to retail water suppliers and which has constructed, or is constructing, a recycled water distribution system.

(6) “Retail water supplier” means any local entity, including a public agency, city, county, or private water company, that provides retail water service.

(7) “Retailer” means the retail water supplier in whose service area is located the property to which a customer requests the delivery of recycled water service.

(Amended by Stats. 1998, Ch. 753, Sec. 1. Effective January 1, 1999.)

§ 13576. [Legislative findings]

The Legislature hereby makes the following findings and declarations:

(a) The State of California is subject to periodic drought conditions.

(b) The development of traditional water resources in California has not kept pace with the state’s population, which is growing at the rate of over 700,000 per year and which is anticipated to reach 36,000,000 by the year 2010.

(c) There is a need for a reliable source of water for uses not related to the supply of potable water to protect investments in agriculture, greenbelts, and recreation and to replenish groundwater basins, and protect and enhance fisheries, wildlife habitat, and riparian areas.

(d) The environmental benefits of recycled water include a reduced demand for water in the Sacramento-San Joaquin Delta that is otherwise needed to maintain water quality, reduced discharge of waste into the ocean, and the enhancement of groundwater basins, recreation, fisheries, and wetlands.

(e) The use of recycled water has proven to be safe from a public health standpoint, and the State Department of Public Health is updating regulations for the use of recycled water.

(f) The use of recycled water is a cost-effective, reliable method of helping to meet California’s water supply needs.

(g) The development of the infrastructure to distribute recycled water will provide jobs and enhance the economy of the state.

(h) Retail water suppliers and recycled water producers and wholesalers should promote the substitution of recycled water for potable water and imported water in order to maximize the appropriate cost-effective use of recycled water in California.

(i) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment should cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service.

(j) Retail water suppliers and recycled water producers and wholesalers should be encouraged to enter into contracts to facilitate the service of recycled and potable water by the retail water suppliers in their service areas in the most efficient and cost-effective manner.

(k) Recycled water producers and wholesalers and entities responsible for groundwater replenishment should be encouraged to enter into contracts to

facilitate the use of recycled water for groundwater replenishment if recycled water is available and the authorities having jurisdiction approve its use.

(l) Wholesale prices set by recycled water producers and recycled water wholesalers, and rates that retail water suppliers are authorized to charge for recycled water, should reflect an equitable sharing of the costs and benefits associated with the development and use of recycled water.

(Amended by Stats. 2010, Ch. 288, Sec. 47. Effective January 1, 2011.)

§ 13577. [Water recycling goals]

This chapter establishes a statewide goal to recycle a total of 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010.

(Added by Stats. 1991, Ch. 187, Sec. 3.)

§ 13578. [Report to the Legislature; task force]

(a) In order to achieve the statewide goal for recycled water use established in Section 13577 and to implement the Governor's Advisory Drought Planning Panel Critical Water Shortage Contingency Plan recommendations, Section F2, as submitted December 29, 2000, the department shall identify and report to the Legislature on opportunities for increasing the use of recycled water, as defined in paragraph (3) of subdivision (b) of Section 13575, and identify constraints and impediments, including the level of state financial assistance available for project construction, to increasing the use of recycled water.

(b) The department shall convene a task force, to be known as the 2002 Recycled Water Task Force, to advise the department in implementation of subdivision (a), including making recommendations to the Legislature regarding the following:

(1) How to further the use of recycled water in industrial and commercial applications, including, but not limited to, those applications set forth in Section 13552.8. The task force shall evaluate the current regulatory framework of state and local rules, regulations, ordinances, and permits to identify the obstacles and disincentives to industrial and commercial reuse. Issues to be investigated include, but are not limited to, applicability of visual inspections instead of pressure tests for cross-connections between potable and nonpotable water systems, dual piping trenching restrictions, fire suppression system design, and backflow protections.

(2) Changes in the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, that are appropriate to facilitate the use of recycled water in industrial and commercial settings. The department shall make recommendations to the California Building Standards Commission with regard to suggested revisions to the California Plumbing Code necessary to incorporate the changes identified by the task force.

(3) Changes in state statutes or the current regulatory framework of state and local rules, regulations, ordinances, and permits appropriate to increase the use of recycled water for commercial laundries and toilet and urinal flushing in structures including, but not limited to, those defined in subdivision (c) of Section 13553. The department shall identify financial incentives to help offset the cost of retrofitting privately and publicly owned structures.

(4) The need to reconvene the California Potable Reuse Committee established by the department in 1993 or convene a successor committee to update the committee's finding that planned indirect potable reuse of recycled water by augmentation of surface water supplies would not adversely affect drinking water quality if certain conditions were met.

(5) The need to augment state water supplies using water use efficiency strategies identified in the CALFED Bay-Delta Program. In its report pursuant to subdivision (a), the department shall identify ways to coordinate with CALFED to assist local communities in educating the public with regard to the statewide water supply benefits of local recycling projects and the level of public health protection ensured by compliance with the uniform statewide water recycling criteria developed by the State Department of Public Health in accordance with Section 13521.

(6) Impediments or constraints, other than water rights, related to increasing the use of recycled water in applications for agricultural, environmental, or irrigation uses, as determined by the department.

(c) (1) The task force shall be convened by the department and be comprised of one representative from each of the following state agencies:

- (A) The department.
- (B) The State Department of Public Health.
- (C) The state board.
- (D) The California Environmental Protection Agency.
- (E) The CALFED Bay-Delta Program.
- (F) The Department of Food and Agriculture.
- (G) The California Building Standards Commission.
- (H) The University of California.
- (I) The Natural Resources Agency.

(2) The task force shall also include one representative from a recognized environmental advocacy group and one representative from a consumer advocacy group, as determined by the department, and one representative of local agency health officers, one representative of urban water wholesalers, one representative from a groundwater management entity, one representative of water districts, one representative from a nonprofit association of public and private members created to further the use of recycled water, one representative of commercial real estate, one representative of land

development, one representative of industrial interests, and at least two representatives from each of the following as defined in Section 13575:

(A) Recycled water producer.

(B) Recycled water wholesaler.

(C) Retail water supplier.

(d) The department and the task force shall report to the Legislature not later than July 1, 2003.

(e) The department shall carry out the duties of this section only to the extent that funds pursuant to Section 79145, enacted as part of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Division 26 (commencing with Section 79000)), are made available for the purposes of this section.

(Amended by Stats. 2010, Ch. 288, Sec. 48. Effective January 1, 2011.)

§ 13579. [Potential uses and sources]

(a) In order to achieve the goals established in Section 13577, retail water suppliers shall identify potential uses for recycled water within their service areas, potential customers for recycled water service within their service areas, and, within a reasonable time, potential sources of recycled water.

(b) Recycled water producers and recycled water wholesalers may also identify potential uses for recycled water, and may assist retail water suppliers in identifying potential customers for recycled water service within the service areas of those retail water suppliers.

(c) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment may cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service and recycled water for groundwater replenishment consistent with the criteria set forth in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 13550 and in accordance with Section 60320 of Title 22 of the California Code of Regulations.

(Amended by Stats. 1998, Ch. 164, Sec. 3. Effective January 1, 1999.)

§ 13580. [Application for supply]

(a) A retail water supplier that has identified a potential use or customer pursuant to Section 13579 may apply to a recycled water producer or recycled water wholesaler for a recycled water supply.

(b) A recycled water producer or recycled water wholesaler that has identified a potential use or customer pursuant to Section 13579, that is within the service territory or jurisdiction of a retail water supplier, may, in writing, request a retail water supplier to enter into an agreement to provide recycled water to the potential customer.

(c) A customer may request, in writing, a retailer to enter into an agreement to provide recycled water to the customer.

(d) (1) An entity responsible for groundwater replenishment that is a customer of a retail water supplier and that has identified the potential use of recycled water for groundwater replenishment purposes may, in writing, request that retail water supplier to enter into an agreement to provide recycled water for that purpose consistent with Sections 13580.5, 13580.7, and 13580.8, as applicable. That entity may not obtain recycled water for that purpose from a recycled water producer, a recycled water wholesaler, or another retail water supplier without the agreement of the entity's retail water supplier.

(2) An entity responsible for groundwater replenishment that is not a customer of a retail water supplier and that has identified the potential use of recycled water for groundwater replenishment purposes may, in writing, request a retail water supplier, a recycled water producer, or a recycled water wholesaler to enter into an agreement to provide recycled water for that purpose.

(Amended by Stats. 2014, Ch. 817, Sec. 2. Effective January 1, 2015.)

§ 13580.5. *[Agreement to provide recycled water]*

(a) (1) Subject to subdivision (e) of Section 13580.7, a retail water supplier that receives a request from a customer pursuant to subdivision (c) of Section 13580 shall enter into an agreement to provide recycled water, if recycled water is available, or can be made available, to the retail water supplier for sale to the customer.

(2) Notwithstanding paragraph (1), in accordance with a written agreement between a recycled water producer or a recycled water wholesaler and a retail water supplier, the retail water supplier may delegate to a recycled water producer or a recycled water wholesaler its responsibility under this section to provide recycled water.

(b) A customer may not obtain recycled water from a recycled water producer, a recycled water wholesaler, or a retail water supplier that is not the retailer without the agreement of the retailer.

(c) If either a recycled water producer or a recycled water wholesaler provides a customer of a retail water supplier with a written statement that it can and will provide recycled water to the retailer, the retail water supplier shall, not later than 120 days from the date on which the retail water supplier receives the written statement from the customer, by certified mail, return receipt requested, submit a written offer to the customer that includes the items listed in subdivision (f) of Section 13580.7. A determination of availability pursuant to Section 13550 is not required.

(d) If the state board pursuant to Section 13550 makes a determination that there is available recycled water to serve a customer of a retail water supplier, the retail water supplier, not later than 120 days from the date on which the retail water supplier receives a copy of that determination from the

customer, by certified mail, return receipt requested, shall submit a written offer to the customer.

(Amended by Stats. 2014, Ch. 817, Sec. 3. Effective January 1, 2015.)

§ 13580.7. [Public agency supplier]

(a) This section applies only to a retail water supplier that is either a mutual water company, formed and operating pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code, or a public agency.

(b) A customer may request, in writing, a retail water supplier to enter into an agreement or adopt recycled water rates in order to provide recycled water service to the customer. The retail water supplier, by certified mail return receipt requested, shall submit a written offer to the customer not later than 120 days from the date on which the retail water supplier receives the written request from the customer that complies with subdivision (f).

(c) If no rate is in effect for recycled water service within the service area of a retail water supplier, the rate and conditions for recycled water service shall be established by contract between the retail water supplier and the customer, not later than 120 days from the date on which the customer requests a contract, or, by resolution or ordinance by the retail water supplier if it is a public agency, or by resolution if the retail water supplier is a mutual water company, not later than 120 days from the date on which the retail water supplier receives the customer's written request for an ordinance or resolution.

(d) A rate for recycled water service established by contract, ordinance, or resolution, shall reflect a reasonable relationship between the amount of the rate and the retail cost of obtaining or producing the recycled water, the cost of conveying the recycled water, and overhead expenses for providing and administering the use of recycled water service. Capital costs of facilities required to serve the customer shall be amortized over the economic life of the facility, or the length of time the customer agrees to purchase recycled water, whichever is less. The rate shall not exceed the estimated reasonable cost of providing the service, and any additional costs agreed to by the customer for recycled water supplemental treatment.

(e) To the extent feasible, the rate for recycled water shall be comparable to, or less than, the retail water supplier's rate for potable water. If recycled water service cannot be provided at a rate comparable to, or less than, the rate for potable water, the retail water supplier is not required to provide the recycled water service, unless the customer agrees to pay a rate that reimburses the retail water supplier for the costs described in subdivision (c).

(f) The offer required by subdivision (b) and subdivisions (c) and (d) of Section 13580.5 shall identify all of the following:

- (1) The source for the recycled water.

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- (2) The method of conveying the recycled water.
 - (3) A schedule for delivery of the recycled water.
 - (4) The terms of service.
 - (5) The rate for the recycled water, including the per-unit cost for that water.
 - (6) The costs necessary to provide service and the basis for determining those costs.
 - (g) This section does not apply to recycled water service rates established before January 1, 1999, or any amendments to those rates.
(Amended by Stats. 2014, Ch. 817, Sec. 4. Effective January 1, 2015.)

§ 13580.8. [Suppliers regulated by the P.U.C.]

- (a) This section applies only to a retail water supplier that is regulated by the Public Utilities Commission.
- (b) Rates for recycled water that is provided to the customer by a retail water supplier regulated by the Public Utilities Commission shall be established by the commission pursuant to Section 455.1 of the Public Utilities Code. A regulated water utility may request the commission to establish the rate or rates for the delivery of recycled or nonpotable water, with the objective of providing, where practicable, a reasonable economic incentive for the customer to purchase recycled or nonpotable water in place of potable water.
- (c) A regulated water utility may propose a rate or rates for recycled or nonpotable water by tariff or by contract between the retail water supplier and the customer. Where the rate or rates are set by contract, the water utility and its customer shall meet, confer, and negotiate in good faith to establish a contract rate.
- (d) The commission shall, as appropriate, provide a discount from the general metered rate of the water utility for potable water by either of the following means:
 - (1) Passing through to the customer the net reduction in cost to the water utility in purchasing and delivering recycled or nonpotable water as compared to the cost of purchasing and delivering potable water.
 - (2) Granting to the customer a uniform discount from the water utility's general metered potable water rate when the discount in paragraph (1) is determined to be an insufficient incentive for the customer to convert to the use of recycled or nonpotable water. If the commission provides for a discount pursuant to this paragraph that is greater than the water utility's reduction in cost, the commission shall authorize the water utility to include the aggregate amount of that discount in its revenue requirements to be applied to, and recovered in, rates that are applicable to all general metered customers.
(Added by Stats. 1998, Ch. 753, Sec. 5. Effective January 1, 1999.)

§ 13580.9. [West Covina]

(a) Notwithstanding any other law, and except as otherwise previously provided for in a contract agreed to by the customer and the City of West Covina, if the purchaser, contractor, or lessee of, or successor to, all or a portion of the water utility owned by the City of West Covina is a retail water supplier that is regulated by the Public Utilities Commission, rates for recycled or nonpotable water service to a closed hazardous waste and solid waste facility located within the boundaries of the City of West Covina for the purposes of irrigation, recreation, or dust suppression or any other use at that facility shall be established in accordance with subdivisions (a) to (e), inclusive, of Section 13580.7, and if there is a failure to agree on the terms and conditions of a recycled or nonpotable water supply agreement for the delivery of water for those purposes by that purchaser, contractor, lessee, or successor, Section 13581 shall apply.

(b) For the purpose of this section, nonpotable water that is not the result of the treatment of waste shall be treated as the equivalent of recycled water if it is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefor considered a valuable resource, if the use of that water will not adversely affect downstream water rights, degrade water quality, or be injurious to plant life, fish, or wildlife, as provided by statute or by regulations of the State Department of Public Health and the state board or a regional board, as appropriate.

(Amended by Stats. 2010, Ch. 288, Sec. 49. Effective January 1, 2011.)

§ 13581. [Mediation of agreements]

(a) If there is a failure to agree on terms and conditions of a recycled water supply agreement involving a retail water supplier that is a public agency within 180 days from the date of the receipt of a request for recycled water pursuant to subdivision (c) of Section 13580, a written statement pursuant to subdivision (c) of Section 13580.5, or a determination of availability pursuant to subdivision (d) of Section 13580.5, any party may request a formal mediation process. The parties shall commence mediation within 60 days after the mediation request is made. If the parties cannot agree on a mediator, the director shall appoint a mediator. The mediator may recommend to the parties appropriate terms and conditions applicable to the service of recycled water. The cost for the services of the mediator shall be divided equally among the parties to the mediation and shall not exceed twenty thousand dollars (\$20,000).

(b) If the parties in mediation reach agreement, both parties together shall draft the contract for the recycled water service. The parties shall sign the contract within 30 days.

(c) If the parties in mediation fail to reach agreement, the affected retail water supplier shall, within 30 days, by resolution or ordinance, adopt a rate for recycled water service. The agency action shall be subject to validating

proceedings pursuant to Chapter 9 (commencing with Section 860) of Part 2 of Title 10 of the Code of Civil Procedure, except that there shall not be a presumption in favor of the retail water supplier under the action taken to set the rate for recycled water service. The mediator shall file a report with the superior court setting forth the recommendations provided to the parties regarding appropriate terms and conditions applicable to the service of recycled water. Each party shall bear its own costs and attorney's fees.

(Amended by Stats. 1998, Ch. 753, Sec. 7. Effective January 1, 1999.)

§ 13581.2. [Determination by the P.U.C.]

If the retail water supplier is regulated by the Public Utilities Commission, and there is a failure to agree on terms and conditions of a recycle water supply agreement with a customer within 180 days from the date of the receipt of a request for recycled water pursuant to subdivision (c) of Section 13580, a written statement pursuant to subdivision (c) of Section 13580.5, or a determination of availability pursuant to subdivision (d) of Section 13580.5, the matter shall be submitted to the Public Utilities Commission for resolution, and the commission shall determine a contract rate or rates for recycled water as provided in Section 13580.8.

(Added by Stats. 1998, Ch. 753, Sec. 8. Effective January 1, 1999.)

§ 13582. [Rights, remedies, obligations]

This chapter is not intended to alter either of the following:

(a) Any rights, remedies, or obligations which may exist pursuant to Article 1.5 (commencing with Section 1210) of Chapter 1 of Part 2 of Division 2 of this code or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

(b) Any rates established or contracts entered into prior to January 1, 1999.

(Amended by Stats. 1998, Ch. 753, Sec. 9. Effective January 1, 1999.)

§ 13583. [Failure to comply]

(a) If a retail water supplier that is a public agency does not comply with this chapter, the customer may petition a court for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

(b) If a retail water supplier is regulated by the Public Utilities Commission and does not comply with this chapter, the Public Utilities Commission may order the retailer to comply with this chapter after receiving a petition from the customer specifying the provisions of this chapter with which the retailer has failed to comply.

(Added by Stats. 1998, Ch. 753, Sec. 10. Effective January 1, 1999.)