

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 723 Rendon – As Amended April 16, 2015

AS PROPOSED TO BE AMENDED

**SUBJECT:** Plumbing fixtures: WaterSense standards

**SUMMARY:** Requires the California Energy Commission (CEC), when setting plumbing fixture water efficiency standards, to consider the performance requirements established by the United States Environmental Protection Agency (EPA) WaterSense standards.

**EXISTING LAW:**

- 1) Establishes minimum energy efficiency standards for water appliances, including toilets, urinals, and faucets (California Code of Regulations, Title 20).
- 2) Establishes building standards, including technical standards of design, materials, workmanship and maintenance for plumbing systems (California Code of Regulations, Title 24).
- 3) Requires the replacement of all non-water conserving plumbing fixtures, as defined, in commercial and residential properties built prior to 1994 with water-conserving fixtures by either 2017 or 2019, depending on the type of property (Civil Code Section 1101.1 et seq.).
- 4) Requires all toilets and urinals sold or installed in this state on or after January 1, 2014 to be high-efficiency (Health & Safety Code Section 17921.3).
- 5) Declares that it is the policy of the state that the management of urban water demands and efficient use of water shall be actively pursued to protect both the people of the state and their water resources (Water Code Section 10610.4).
- 6) Provides that local governments may adopt more restrictive conservation requirements (Health & Safety Code Section 17921.3).

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

Background: California has been a leader in energy efficiency since the 1970s, when the state implemented the first efficiency standards. According to a December 2013 report by the Pacific Institute, standards and codes have been one of the most effective methods to improve energy efficiency statewide. Title 20 of the Code of Regulations sets energy efficiency standards for multiple categories of appliances. The CEC regularly updates and expands these standards through a stakeholder process. Established in 1974, the CEC, formally the Energy Resources Conservation and Development Commission, is the state's primary energy policy and planning

agency. The Warren-Alquist Act is the legislation that created and gives statutory authority to the CEC, a division of the California Natural Resources Agency.

WaterSense standards: According to the EPA, "WaterSense, a partnership program by the U.S. Environmental Protection Agency, seeks to protect the future of our nation's water supply by offering people a simple way to use less water with water-efficient products, new homes, and services." The program began in 2006. Products and services that carry the WaterSense label have been certified to be at least 20% more efficient without sacrificing performance. Independent, third-party licensed certifying bodies certify that products meet EPA criteria for water efficiency and performance by following testing and certification protocols specific to each product category. Products that are certified to meet EPA specifications are allowed to bear the WaterSense label.

Recently adopted CEC energy efficiency and water standards: On April 1, 2015, the Governor issued Executive Order B-29-15, directing the first ever statewide mandatory water reduction. One of the four CEC responsibilities in the executive order is establishing standards that improve the efficiency of water appliances, including toilets, urinals and faucets available for sale and installation in new and existing buildings. According to the CEC, the recently approved energy efficiency and water standards "require water appliances to consume less water thereby using less energy while performing the same function." The standards for each appliance are listed below:

- Toilets and urinals, except those designed for prisons or mental health facilities. Toilets shall not consume more than 1.28 gallons per flush and shall have a waste extraction score of no fewer than 350 grams. Urinals shall not consume more than 0.125 gallons per flush.
- Residential lavatory faucets shall not exceed 1.2 gallons per minute flow rate.
- Kitchen faucets shall not exceed 1.8 gallons per minute flow rate and may have capability to increase to 2.2 gallons per minute momentarily for filling pots and pans.
- Public lavatory faucets shall not exceed 0.5 gallon per minute flow rate.

These standards were adopted on April 8, 2015, and the emergency situation also allows the CEC to prohibit the sale and installation of certain toilets, urinals and faucets that do not meet minimum water efficiency requirements as of Jan. 1, 2016, regardless of the manufactured date. While these standards are consistent with WaterSense efficiency standards, they do not specifically align with WaterSense performance requirements.

Existing requirements for plumbing fixtures: In 1992, the Legislature passed SB 1224 (Killea), Chapter 1347, Statutes of 1992, that required all water closets (toilets) sold or installed on or after January 1, 1994 to use no more than an average of 1.6 gallons per flush, and likewise for urinals, to use no more than an average of one gallon per flush. In 2007, AB 715 (Laird), Chapter 499, Statutes of 2007, prohibited the sale, after January 1, 2014, of toilets that exceed 1.28 gallons per flush and urinals that exceed 0.5 gallon per flush. The CBSC adopted this standard for new construction built after 2011. In 2009, SB 407 (Padilla), Chapter 587, Statutes of 2009, required the replacement of all non-water conserving plumbing fixtures, as defined, in commercial and residential properties built prior to 1994 with water-conserving fixtures by either 2017 or 2019, depending on the type of property.

Purpose of this bill: According to the author, "California has embraced a variety of legislation to reduce urban water consumption and expand access to water-efficient fixtures and appliances. There are still steps that the legislature and state agencies can take to improve and synthesize this process, and AB 723 facilitates that conversation."

The author notes that "a common criticism of high-efficiency toilets and other high-efficiency fixtures is that they break easily and are ineffective." Federally-set EPA WaterSense qualifications "are considered some of the most advanced and stringent, in terms of both performance and efficiency measures. While the recent updates to the CEC's Title 20 plumbing fixture standards will achieve, and in some cases exceed, WaterSense efficiency standards for most plumbing fixtures, Title 20 standards do not necessarily have WaterSense high-performance requirements." This bill will encourage the CEC to consider WaterSense performance standards when setting plumbing fixture water efficiency standards.

Related legislation:

SB 1224 (Killea), Chapter 1347, Statutes of 1992: Requires all water closets (toilets) sold or installed on or after January 1, 1994 to use no more than an average of 1.6 gallons per flush, and requires all urinals sold or installed on or after January 1, 1994 to use no more than an average of one gallon per flush.

AB 715 (Laird), Chapter 499, Statutes of 2007: Prohibits the sale, after January 1, 2014, of toilets that exceed 1.28 gallons per flush and urinals that exceed 0.5 gallon per flush.

SB 407 (Padilla), Chapter 587, Statutes of 2009: Requires the replacement of all non-water conserving plumbing fixtures, as defined, in commercial and residential properties built prior to 1994 with water-conserving fixtures by either 2017 or 2019, depending on the type of property.

As Proposed to be Amended:

Below is a mock-up of the bill as proposed to be amended:

**SECTION 1.** Section 17921.2 is added to the Health and Safety Code, to read:

17921.2. When setting plumbing fixture water efficiency standards, the California Energy Commission shall consider the performance requirements established by the United States Environmental Protection Agency WaterSense standards.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Municipal Utilities Association

**Opposition**

None on file

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