

Date of Hearing: April 27, 2011

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 849 (Gatto) – As Amended: March 31, 2011

SUBJECT: Water: use efficiency: graywater building standards

SUMMARY: Repeals a city's or county's authority to adopt an ordinance that prohibits entirely the use of graywater systems or enact building standards that are more restrictive than the graywater building standards adopted by the Department of Housing and Community Development (HCD). Specifically, this bill:

- 1) Includes intent language.
- 2) Repeals a city's or county's authority to adopt an ordinance that prohibits entirely the use of graywater systems or enact building standards that are more restrictive than the graywater building standards adopted by HCD.

EXISTING LAW

- 1) Allows a city, county or other local agency to adopt an ordinance that prohibits entirely the use of graywater systems or enact building standards that are more restrictive than the graywater building standards adopted by HCD (Health & Safety Code Section 18941.7).
- 2) Directs HCD to develop building standards for the construction, installation, and alteration of graywater systems for indoor and outdoor use (Health & Safety Code Section 17922.12).
- 3) Authorizes California Building Standards Commission (CBSC) to approve and adopt building standards. Every three years building standards rulemaking is undertaken to revise and update the California Building Standards Code (BSC) (Title 24 of the California Code of Regulations).
- 4) Allows a governing body, city or county to make modifications to the BSC if they make express findings that such a modification or change is necessary because of local climatic, geological or topographical conditions (Health & Safety Code Section 17958.7)
- 5) Requires a governing body, city, or county to make a finding in a public meeting and file a copy of those findings together with the modifications or change with the CBSC (Health & Safety Code Section 17958.7).
- 6) Defines graywater as untreated wastewater, uncontaminated by toilet discharge or an unhealthy bodily waste, which is not a threat from unhealthful processing, manufacturing or operating wastes. Graywater includes wastewater from bathtubs, showers, bathroom washbasins, clothes washers, and laundry tubs. Graywater excludes kitchen sink or dishwasher wastewater.

FISCAL EFFECT: None.

COMMENTS:

The California Building Standards Law establishes the CBSC and the process for adopting state building standards. Statewide building standards are intended to provide uniformity in building across the state. There are a few exemptions, which allow a local governing body, city or county to modify state building standards. A local governing body, city, or county can adopt an ordinance or a resolution in a public meeting that finds that a local building standard must be modified from the state building standard because of local climatic, geological or topographical conditions and file that ordinance with the CBSC. The CBSC reviews the findings of the ordinance to determine if the local governing body followed the correct procedure.

SB 1258 (Lowenthal), Chapter 72, Statutes of 2008, required HCD to adopt building standards for graywater systems for residential indoor and outdoor use. HCD conducted an extensive outreach and public participation process to develop the proposed standards, and the CBSC adopted these standards on July 30, 2009. In 2010, SB 518 (Lowenthal), Chapter 622, requires the CBSC to adopt, as specified, non-residential building standards for graywater systems for indoor and outdoor use.

In the case of graywater systems local governing bodies, cities and counties can expressly deny entirely the use of a graywater system or adopt standards that are more restrictive than the building standards adopted by HCD and published by the BSC. This bill would eliminate a local government's authority to do so. A local government could still under existing law, adopt an ordinance that made express findings that such a modification or change is necessary because of local climatic, geological or topographical conditions and file that ordinance with the BSC.

Purpose of this bill:

According to the author, "despite the Legislature setting state-wide standards to regulate graywater in California, Health & Safety Code Section 18941.7 allows local governments to apply stricter regulations to graywater or to ban graywater altogether. This makes following standards difficult for both builders and private land owners who wish to utilize graywater as a means of water conservation in residential and commercial developments. In some cases, locals living in areas where graywater is banned have either resorted to using black water to water their lawns or use home-made graywater systems that are unregulated and do not necessarily meet state graywater standards. Local governments should not be able to opt out of a baseline standard for graywater as a means of water conservation."

Graywater:

Water provided to homes and businesses meets national primary drinking water standards. However, many of the applications for water use in urban environments (e.g., flushing toilets, cleaning, firefighting, irrigation, etc.) do not pose the same types of exposure as direct ingestion of drinking water. Recovering graywater provides an opportunity to utilize an alternative water source for non-potable applications, thereby preserving water resources for other applications while decreasing the amount of energy used to treat both drinking water and wastewater and to convey water from sources to users and back to treatment facilities.

Staff comments:

The committee may wish to consider that there may be local conditions such as sandy soil that does not allow water to be absorbed and shallow ground water table, where it may be beneficial for local governing body to be able to modify the state building standards. Rather than delete the authority to ban or adopt more restrictive graywater standards than the state standards, the committee may wish to create more transparency by, requiring a local government to include in the ordinance the local conditions that constitute the ban or stricter standards so that public is aware and able to challenge at the local level.

Committee amendments:Amendment 1:

Delete the intent language.

Amendment 2:

Delete lines 9 through 16 and insert the following:

A city, county, or other local agency may adopt, after a public hearing and enactment of an ordinance or resolution, building standards that prohibit entirely the use of graywater, or building standards that are more restrictive than the graywater building standards adopted by the Department of Housing and Community Development under Section 17922.12 and published in the California Building Standards Code. **The ordinance must include the local climatic, geological, topographical, or any other conditions that require the prohibition on the use of graywater or building standards that are more restrictive than the graywater building standards adopted by Department of Housing and Community Development under Section 17922.12 and published in the California Building Standards Code.**

Double referred: The Assembly Committee on Rules referred AB 849 to the Committee on Housing and Community Development and Local Government. If AB 849 passes this committee, the bill must be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:Support

California Building Industry Association
Planning and Conservation League
ReWater Systems, Thousand Oaks

Opposition

None on file.

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085