

Date of Hearing: September 11, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Brian Maienschein, Chair

AB 1164 (Gatto) – As Amended September 4, 2015

SUBJECT: Water conservation: drought tolerant landscaping.

SUMMARY: Prohibits cities and counties from enacting or enforcing any ordinance or regulation that prohibits the installation of drought tolerant landscaping, synthetic grass, or artificial turf on residential property. Specifically, **this bill:**

- 1) Prohibits a city, including a charter city, county, or city and county, from enacting any ordinance or regulation, or enforce any existing ordinance or regulation, that prohibits the installation of drought tolerant landscaping, synthetic grass, or artificial turf on residential property.
- 2) Allows a city, including a charter city, county, or city and county, to impose reasonable restrictions on the type of drought tolerant landscaping, synthetic grass, or artificial turf that may be installed on residential property provided that those restrictions do not do any of the following:
 - a) Substantially increase the cost of installing drought tolerant landscaping, synthetic grass, or artificial turf;
 - b) Effectively prohibit the installation of drought tolerant landscaping, synthetic grass or artificial turf; or,
 - c) Significantly impede the installation of drought tolerant landscaping, including, but not limited to, a requirements that a residential yard must be completely covered with living plant material.
- 3) Makes a number of findings and declarations.
- 4) Contains an urgency clause, and specifies the facts constituting the necessity are:

In order to address the historic, prolonged, and potentially devastating drought, it is necessary that residents of this state be able to replace water inefficient landscaping with drought tolerant landscaping as quickly as possible.

EXISTING LAW delegates, pursuant to the California Constitution, the police power to cities and counties to make and enforce within limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

FISCAL EFFECT: According to the Senate Appropriations Committee, no state costs are anticipated as a result of provisions that prohibit cities and counties from enacting or enforcing specified ordinances and regulations prohibiting synthetic grass.

COMMENTS:

- 1) **Bill Summary.** This bill prohibits cities and counties from enacting or enforcing any ordinance or regulation that prohibits the installation of drought tolerant landscaping, synthetic grass, or artificial turf on residential property, and applies to all cities, including charter cities, and all counties. This bill is sponsored by the author and contains an urgency clause.
- 2) **Background.** Governor Brown issued two proclamations of a State of Emergency in early 2014 due to severe and ongoing drought conditions. In light of the impacts of the drought on water supply, the Governor issued Executive Order B-29-15 on April 1, 2015, which includes orders to save water, increase enforcement against water waste, invest in new technologies, and streamline government response, as specified. Among its provisions, the Executive Order requires the State Water Resources Control Board to impose restrictions to achieve a statewide 25 percent reduction in potable urban water usage through February 28, 2016, and requires the Department of Water Resources (DWR) to lead a statewide initiative, in partnership with local agencies, to replace 50 million square feet of lawns and ornamental turf with drought tolerant landscapes. DWR is directed to provide funding to allow for lawn replacement programs in underserved communities to complement existing local programs.

In response to the directive in the Executive Order, DWR has developed the Turf Replacement Initiative, consisting of three integrated program components:

- a) A Residential Turf Rebate Program, which provides customer rebates and contractor direct rebates for residential turf removal and replacement efforts.
- b) A Commercial, Industrial and Institutional Turf Replacement Program targeting turf removal and replacement on government and commercial sites in underserved communities of the San Joaquin Valley.
- c) A Statewide Campaign to Promote Drought Tolerant Landscapes, which is a DWR partnership with state, regional, local, and nonprofit entities to publicize the rebate initiative and communicate the benefits of converting lawns to drought tolerant landscapes, including outreach, community engagement, and technical support.

The 2015 Budget Act includes \$25 million in Proposition 1 general obligation bond funds designated for water use efficiency to fund DWR's Turf Replacement Initiative. This level of funding is expected to support the conversion of over 10 million square feet of turf. The guidelines for the Residential Turf Rebate Program specify the state program rebate amount will be \$2 per square foot of turf removed with a maximum rebate of \$2,000 per household. The guidelines require rebated portions of converted landscapes to only include low water use, drought tolerant, or California native plants, and prohibit the use of rebates for live or synthetic turf on converted landscapes.

Existing law, Article XI, Section 7 of the California Constitution, vests cities and counties with the police power to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Courts have interpreted the police power as including the power to regulate the physical appearance of the environment within a community, including ordinances that enforce aesthetic standards.

Some California local governments have adopted ordinances that ban residents from using synthetic grass or artificial turf to replace natural turf lawns.

- 3) **Author's Statement.** According to the author, "California is in the fourth year of an unparalleled drought, the worst in the State's recorded history. However, despite this dire situation and the ambitious water use reductions goals facing cities and water agencies, some Californians seeking to save water are facing barriers to doing so.

"One of the areas with the highest potential water use savings is landscape irrigation, which accounts for nearly 43% of urban water use in California—making it the largest user of urban water. Reducing this type of use, whether by decreasing watering of lawns, replacing lawns with drought tolerant landscapes, or replacing lawns with turf will be necessary to meet water reduction goals.

"This bill lifts outdated bans on the use of artificial turf on front lawns and also provides funds to local governments and water agencies to provide incentives for those who want to replace their existing lawns with drought-tolerant landscaping. This bill will give Californians more tools to do their part to save water during the state's continuing drought while also facilitating more sustainable long-term outdoor irrigation practices."

- 4) **Arguments in Support.** Supporters argue that the bill is necessary to lift outdated bans on the installation of artificial turf statewide, and that outdoor landscaping is one of the areas with the highest potential for water use savings.
- 5) **Arguments in Opposition.** None on file.
- 6) **Urgency Measure.** This bill is an urgency measure and requires a two-thirds vote of each house.

REGISTERED SUPPORT / OPPOSITION:

Support

American Planning Association, California Chapter
 Association of California Water Agencies
 Burbank Water and Power
 California Association of Realtors
 California Landscape Contractors Association
 California Municipal Utilities Association
 Honorable Eric Garcetti, Mayor of Los Angeles
 San Diego County Water Authority
 The Metropolitan Water District of Southern California
 Three Valleys Municipal Water District

Opposition

None on file

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