

Assembly Bill No. 325

CHAPTER 1145

An act to add Article 10.8 (commencing with Section 65590) to Chapter 3 of Division 1 of Title 7 of the Government Code, relating to water conservation.

[Approved by Governor September 20, 1990. Filed with Secretary of State September 21, 1990.]

LEGISLATIVE COUNSEL'S DIGEST

AB 325, Clute. Water conservation: landscaping ordinance.

(1) Under existing law, local agencies are not required to adopt ordinances concerning landscape water conservation.

This bill would require the Department of Water Resources by February 1, 1991, to appoint an advisory task force to work with the department in the drafting of a model water efficient landscape ordinance and to submit the recommended ordinance to the department by May 1, 1991. The bill would require the department by January 1, 1992, after holding a public hearing, based on recommendations of the task force, to adopt a model local water efficient landscape ordinance which each local agency, as defined, may adopt. The bill would provide that if any local agency has not adopted a water landscape ordinance or findings, based on specified factors, that no ordinance is necessary, by January 1, 1993, the model ordinance shall take effect and shall be enforced by that local agency and have the same force and effect as if adopted by that local agency. The bill would require each local agency, not later than January 31, 1993, to file with the department a copy of the water efficient landscape ordinance adopted, or the findings which state that no ordinance is necessary, thereby imposing a state-mandated local program.

The bill would require the department to report to the Legislature on the status of these local ordinances by July 1, 1993.

The bill would require the model ordinance to contain specified provisions and would specify related matters.

The bill would make legislative findings and declarations and would declare legislative intent.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Article 10.8 (commencing with Section 65590) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10.8. Water Conservation in Landscaping

65590. This article may be cited and shall be known as the Water Conservation in Landscaping Act.

65591. The Legislature finds and declares all of the following:

(a) The waters of the state are of limited supply and are subject to ever increasing demands.

(b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses.

(c) It is the policy of the state to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.

(d) Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development.

(e) Landscape design, installation, and maintenance can and should be water efficient.

65591.5. (a) It is the intent of the Legislature that the Department of Water Resources prepare and promote the use of a model water efficient landscape ordinance which local agencies may adopt.

(b) It is the intent of the Legislature that the Department of Water Resources adopt a model water efficient landscape ordinance based on recommendations from a task force representing the landscape, water, and building industries, local agencies, and others.

(c) It is the intent of the Legislature that the task force reach general agreement on those provisions which will be included in the model water efficient landscape ordinance.

(d) It is the intent of the Legislature that the task force consider the most recent information on efficient landscape irrigation technologies and those elements of existing water efficient landscape ordinances which have proven successful in reducing water consumption.

(e) It is the intent of the Legislature that the model water efficient landscape ordinance developed pursuant to this article promote the most efficient use of water in the landscape while respecting the economic, environmental, aesthetic, and lifestyle choices of individuals and property owners.

65592. Unless the context requires otherwise, the definitions used in this section govern the construction of this article:

(a) "Department" means the Department of Water Resources.

(b) "Local agency" means any city, county, or city and county.

(c) "Water efficient landscape ordinance" means an ordinance or resolution adopted by a local agency to address the efficient use of water in landscaping.

65593. Not later than February 1, 1991, the department shall appoint an advisory task force to work with department staff in the drafting of a model water efficient landscape ordinance. The task force shall consist of the following members:

(a) One member selected from a list provided by the League of California Cities.

(b) One member selected from a list provided by the County Supervisors Association of California.

(c) One member selected from a list provided by a recognized professional association in California representing water agencies.

(d) One member selected from a list provided by a recognized association in California representing commercial builders.

(e) One member selected from a list provided by a recognized professional association in California representing residential builders.

(f) One member representing a nonprofit environmental protection organization or a water conservation organization whose principal purpose includes promoting the efficient use of water or water conservation.

(g) One member selected from a list provided by a recognized professional association in California representing the nursery industry.

(h) One member selected from a list provided by a recognized professional association in California representing landscape contractors.

(i) One member selected from a list provided by a recognized professional association in California representing landscape architects.

(j) One member selected from a list provided by a recognized professional association in California representing the manufacturers or designers of irrigation equipment.

(k) One member representing the Green Industry Council of California.

(l) One member selected from a list provided by a recognized association in California representing the growers or producers of turf grass.

(m) One member selected by the Director of Water Resources.

Membership of the task force shall, to the extent practicable, be representative of the state's cultural, racial, and ethnic diversity and gender balance.

All meetings of the task force shall be subject to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

The Legislature declares that some individuals appointed as

members of the task force must be chosen as representatives of the industries and professions impacted by local water conservation ordinances, and that their representation of these industries and professions does serve the general public interest as they have unique information, expertise, and experience on the issue of water conservation and landscaping that should be taken into consideration by the department as it considers the development of model water conservation ordinances. Therefore, for purposes of persons who hold this office, the industries and professions which are represented on the task force constitute the public generally within the meaning of Section 87103 of the Government Code in those decisions impacting those specific industries and professions, unless the results of their actions taken as task force members have a material financial effect on those members distinguishable from their effect on other members of their respective industries and professions generally.

The task force shall submit the recommended model local water efficient landscape ordinance to the department on or before May 1, 1991.

The department shall adopt a model local water efficient landscape ordinance based on the recommendations of the task force.

The task force shall cease to exist on the date the department adopts a model local water efficient landscape ordinance or January 1, 1992, whichever occurs first.

65594. (a) Not later than January 1, 1992, after holding a public hearing, the department, based on recommendations of the task force established pursuant to Section 65593, shall adopt a model local water efficient landscape ordinance which each local agency may adopt.

(b) In developing the model ordinance, the task force shall recognize and promote the benefits of consistent local ordinances in areas having similar climatic, geological, or topographical conditions.

(c) The department shall notify and deliver a copy of the model local water efficient landscape ordinance to the Joint Legislative Budget Committee. The Joint Legislative Budget Committee shall have 60 days to review the model ordinance before it is formally adopted by the department.

(d) Not later than January 31, 1992, the department shall distribute the adopted model ordinance to all local agencies and other interested parties.

(e) The department shall promote the benefits of consistent local ordinances in areas having similar climatic, geological, or topographical areas.

65595. If by January 1, 1993, a local agency has not adopted a water efficient landscape ordinance or has not adopted findings based on climatic, geological, or topographical conditions, or water availability, which state that a water efficient landscape ordinance is unnecessary, the model water efficient landscape ordinance adopted

by the department pursuant to subdivision (a) of Section 65594 shall take effect on January 1, 1993, and shall be enforced by the local agency and have the same force and effect as if adopted by the local agency.

65596. To the extent feasible, local agencies that adopt a water efficient landscape ordinance after the model water efficient landscape ordinance is adopted by the department, shall consider the provisions of the model.

65597. The proposed model ordinance shall contain, but not be limited to, the following:

(a) Provisions for water conservation through the appropriate use and groupings of plants that are well adapted to particular sites and to particular climatic, geological, or topographical conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species. However, the model shall not include conditions which have the effect of prohibiting or requiring specific plant species.

(b) Provisions for the use of automatic irrigation systems and seasonal irrigation schedules, incorporating water conservation design and utilizing methods appropriate for specific terrains, soil types, wind conditions, temperatures, and other environmental factors, in order to ensure a high degree of water efficiency.

(c) Provisions for grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.

(d) Provisions for the use of reclaimed water supplied through dual distribution systems, if feasible and cost effective, and subject to appropriate health standards.

(e) Provisions to educate water users on the efficient use of water and the benefits of doing so.

(f) Provisions addressing regional differences where necessary and feasible, including fire prevention needs.

(g) Provisions to exempt landscaping which is part of a registered historical site, where feasible.

(h) Provisions for the use of economic incentives to promote the efficient use of water, where feasible.

(i) Provisions for landscape maintenance practices which foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, scheduling irrigation based on CIMIS (California Irrigation Management Information System), conducting water audits, and prescribing the amount of water applied per landscaped acre.

65598. The proposed model ordinance shall exempt cemeteries from all provisions of the ordinance except those provisions adopted to conform with subdivisions (e), (h), and (i) of Section 65597. In adopting language specific to cemeteries, the task force shall

recognize their special landscape management needs.

65599. Not later than January 31, 1993, each local agency shall file with the department a copy of the water efficient landscape ordinance adopted pursuant to Section 65595, or adopted before the effective date of this article, or the findings which state that a water efficient landscape ordinance is unnecessary. Not later than July 1, 1993, the department shall prepare and submit a report to the Legislature summarizing the status of water efficient landscape ordinances adopted by local agencies.

65600. Any actions or proceedings to attach, review, set aside, void, or annul the act, decision, or findings of a local agency on the ground of noncompliance with this article shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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