

AMENDED IN SENATE APRIL 11, 2002
AMENDED IN SENATE SEPTEMBER 4, 2001
AMENDED IN SENATE JUNE 26, 2001
AMENDED IN ASSEMBLY APRIL 26, 2001
AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1561

Introduced by Assembly Member Kelley

February 23, 2001

~~An act to add Chapter 13 (commencing with Section 2960) to Division 3 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor. An act to amend Section 25402 of the Public Resources Code, relating to energy resources.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1561, as amended, Kelley. ~~Colorado River Water~~ Energy efficiency standards: clothes washers.

Existing law requires the State Energy Resources Conservation and Development Commission, after one or more public hearings, to prescribe, by regulation, among other things, certain energy efficiency standards, cost-effective measures, and consumer education programs, to promote the use of energy efficient appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis.

This bill would require the commission, not later than January 1, 2004, to amend existing regulations pertaining to energy efficiency standards for residential clothes washers to require a 9.5 water use efficiency factor that would be applicable to all clothes washers manufactured on or after January 1, 2007. The bill would also require the commission, not later than April 1, 2003, to petition the federal Department of Energy for an exemption from any federal regulations governing energy efficiency standards that are applicable to residential clothes washers manufactured or sold in California on or after January 1, 2004, and, not later than January 1, 2004, to report to the Legislature on its progress with respect to the above requirements.

~~(1) Existing law authorizes the taking of endangered, threatened, and candidate species under certain circumstances.~~

~~This bill would authorize the Department of Fish and Game and the Fish and Game Commission to authorize the taking of certain birds and fully protected species if the taking is related to (a) the implementation of any component of the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada and approved by the department, (b) the implementation of any component of the May 11, 2000, working draft of the California Colorado River Water Use Plan, or (c) the effects of any covered activities as described in the Water Conservation and Transfer Project Habitat Conservation Plan prepared by the Imperial Irrigation District for the purpose of obtaining compliance with the California Endangered Species Act for certain water transfers.~~

~~The bill also would deem certain statutory requirements, including requirements of the California Endangered Species Act, relating to impacts or potential impacts at the Salton Sea on any species resulting from conservation measures, water transfers, and any other actions carried out in furtherance of a specified agreement, satisfied as of January 1, 2002, and for the period that the specified agreement is in effect. This provision would not be operative if the specified agreement is not executed on or before December 31, 2002.~~

~~The operation of the provisions described above would be suspended if a specified feasibility study required by federal law relating to the Salton Sea is not completed by December 31, 2002. Those provisions then would again become operative when the study is completed.~~

~~(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and to the commission to pay all necessary expenses incurred in carrying out the Fish and Game~~

~~Code and to pay the compensation and expenses of the commissioners and employees of the commission.~~

~~By authorizing the commission and the department to undertake new duties, this bill would make an appropriation.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

~~SECTION 1. Chapter 13 (commencing with Section 2960) is~~

SECTION 1. The Legislature finds and declares all of the following:

(a) Significant amounts of energy are consumed in the state through pumping water, water treatment, and sewage treatment.

(b) Water conservation is a proven tool that will make the most effective use of the state's limited water supply, and will conserve energy.

(c) A significant portion of urban water demand in the state is for residential clothes washers.

(d) Section 17138 of the Revenue and Taxation Code includes in the description of water efficient clothes washers that qualify for a tax credit those clothes washers that meet specified water efficiency standards, as determined by the State Energy Resources Conservation and Development Commission.

(e) The State Energy Resources Conservation and Development Commission established a water energy efficiency standard for all commercial clothes washers sold in California on and after January 1, 2007.

(f) The federal Department of Energy regulations preempt the state from establishing a similar minimum 9.5 water use efficiency factor for residential clothes washers.

SEC. 2. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which that increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall

1 be cost-effective, when taken in their entirety, and when amortized
2 over the economic life of the structure when compared with
3 historic practice. The commission shall periodically update the
4 standards and adopt any revision ~~which~~ *that*, in its judgment, it
5 deems necessary. Six months after the commission certifies an
6 energy conservation manual pursuant to subdivision (c) of Section
7 25402.1, no city, county, city and county, or state agency shall
8 issue a permit for any building unless the building satisfies the
9 standards prescribed by the commission pursuant to this
10 subdivision or subdivision (b) of this section ~~which~~ *that* are in
11 effect on the date an application for a building permit is filed.

12 (b) Prescribe, by regulation, energy conservation design
13 standards for new residential and new nonresidential buildings.
14 The standards shall be performance standards and shall be
15 promulgated in terms of energy consumption per gross square foot
16 of floorspace, but may also include devices, systems, and
17 techniques required to conserve energy. The standards shall be
18 cost-effective when taken in their entirety, and when amortized
19 over the economic life of the structure when compared with
20 historic practices. The commission shall periodically review the
21 standards and adopt any revision ~~which~~ *that*, in its judgment, it
22 deems necessary. A building that satisfies the standards prescribed
23 pursuant to this subdivision need not comply with the standards
24 prescribed pursuant to subdivision (a) ~~of this section~~. The
25 commission shall comply with ~~the provisions of~~ this subdivision
26 before January 1, 1981.

27 (c) (1) Prescribe, by regulation, standards for minimum levels
28 of operating efficiency, based on a reasonable use pattern, and may
29 prescribe other cost-effective measures, including incentive
30 programs, fleet averaging, energy consumption labelling not
31 preempted by federal labelling, and consumer education
32 programs, to promote the use of energy efficient appliances whose
33 use, as determined by the commission, requires a significant
34 amount of energy on a statewide basis. The minimum levels of
35 operating efficiency shall be based on feasible and attainable
36 efficiencies or feasible improved efficiencies ~~which~~ *that* will
37 reduce the electrical energy consumption growth rate. The
38 standards shall become effective no sooner than one year after the
39 date of adoption or revision. No new appliance manufactured on
40 or after the effective date of the standards may be sold or offered

1 for sale in the state, unless it is certified by the manufacturer
2 thereof to be in compliance with the standards. The standards shall
3 be drawn so that they do not result in any added total costs to the
4 consumer over the designed life of the appliances concerned.

5 (2) No new appliance, except for any plumbing fitting,
6 regulated under paragraph (1), which is manufactured on or after
7 July 1, 1984, may be sold, or offered for sale, in the state, unless
8 the date of the manufacture is permanently displayed in an
9 accessible place on that appliance.

10 (3) During the period of five years after the commission has
11 adopted a standard for a particular appliance; under paragraph (1),
12 no increase or decrease in the minimum level of operating
13 efficiency required by the standard for that appliance shall become
14 effective, unless the commission adopts other cost-effective
15 measures for that appliance.

16 (4) Neither the commission nor any other state agency shall
17 take any action to decrease any standard adopted under this
18 subdivision on or before June 30, 1985, prescribing minimum
19 levels of operating efficiency or other energy conservation
20 measures for any appliance, unless the commission finds by a
21 four-fifths vote that such a decrease is of benefit to ratepayers, and
22 that there is significant evidence of changed circumstances. Prior
23 to January 1, 1986, the commission shall not take any action to
24 increase any standard prescribing minimum levels of operating
25 efficiency for any appliance or adopt any new standard under
26 paragraph (1). Prior to January 1, 1986, any appliance
27 manufacturer doing business in this state shall provide directly, or
28 through an appropriate trade or industry association, information,
29 as specified by the commission after consultation with
30 manufacturers doing business in the state and appropriate trade or
31 industry associations on sales of appliances so that the commission
32 may study the effects of regulations on those sales. These
33 informational requirements shall remain in effect until the
34 information is received. The trade or industry association may
35 submit sales information in an aggregated form in a manner that
36 allows the commission to carry out the purposes of the study. The
37 commission shall treat any sales information of an individual
38 manufacturer as confidential and that information shall not be a
39 public record. The commission shall not request any information
40 that cannot be reasonably produced in the exercise of due diligence

1 by the manufacturer. At least one year prior to the adoption or
2 amendment of a standard for an appliance, the commission shall
3 notify the Legislature of its intent, and the justification therefor, to
4 adopt or amend a standard for the appliance. Notwithstanding
5 paragraph (3) and this paragraph, the commission may do any of
6 the following:

7 (A) Increase the minimum level of operating efficiency in an
8 existing standard up to the level of the National Voluntary
9 Consensus Standards 90, adopted by the American Society of
10 Heating, Refrigeration, and Air Conditioning Engineers or, for
11 appliances not covered by that standard, up to the level established
12 in a similar nationwide consensus standard.

13 (B) Change the measure or rating of efficiency of any standard,
14 if the minimum level of operating efficiency remains substantially
15 the same.

16 (C) Adjust the minimum level of operating efficiency in an
17 existing standard in order to reflect changes in test procedures that
18 the standards require manufacturers to use in certifying
19 compliance, if the minimum level of operating efficiency remains
20 substantially the same.

21 (D) Readopt a standard preempted, enjoined, or otherwise
22 found legally defective by an administrative agency or a lower
23 court, if final legal action determines that the standard is valid and
24 if the standard ~~which~~ *that* is readopted is not more stringent than
25 the standard that was found to be defective or preempted.

26 (E) Adopt or amend any existing or new standard at any level
27 of operating efficiency, if the Governor has declared an energy
28 emergency pursuant to Section 8558 of the Government Code.

29 (5) Notwithstanding paragraph (4), the commission may adopt
30 standards pursuant to commission order No. 84-0111-1, on or
31 before June 30, 1985.

32 (d) Recommend minimum standards of efficiency for the
33 operation of any new facility at a particular site ~~which~~ *that* are
34 technically and economically feasible. No site and related facility
35 shall be certified pursuant to Chapter 6 (commencing with Section
36 25500), unless the applicant certifies that standards recommended
37 by the commission have been considered, which certification shall
38 include a statement specifying the extent to which conformance
39 with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of the conflict.

(e) The commission shall do all of the following:

(1) Not later than January 1, 2004, amend any regulations in effect on January 1, 2003, pertaining to the energy efficiency standards for residential clothes washers to require a 9.5 water efficiency factor for those clothes washers manufactured on or after January 1, 2007.

(2) Not later than April 1, 2003, petition the federal Department of Energy for an exemption from any relevant federal regulations governing energy efficiency standards that are applicable to residential clothes washers manufactured or sold in California.

(3) Not later than January 1, 2004, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

~~added to Division 3 of the Fish and Game Code, to read:~~

~~CHAPTER 13. COLORADO RIVER WATER~~

~~2960. "Quantification Settlement Agreement," for purposes of this chapter, means the agreement with that title among the Quantification Settlement Agreement parties, the provisions of which are substantially as described in the draft Quantification Settlement Agreement dated December 12, 2000, and submitted for public review by the Quantification Settlement Agreement parties.~~

~~2961. (a) The commission or the department may authorize the taking of any species identified in Section 3503.5, 3505, 3511, 4700, 5050, or 5515 if the taking is related to any of the following:~~

~~(1) The implementation of any component of the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada, and approved by the department.~~

~~(2) The implementation of any component of the May 11, 2000, working draft of the California Colorado River Water Use Plan prepared by the Colorado River Board of California to~~

1 ~~transition California to its basic annual Colorado River~~
2 ~~apportionment of 4.4 million acre feet, and as that plan may be~~
3 ~~amended by that board.~~

4 ~~(3) The effects of any “Covered Activities” as described in the~~
5 ~~Water Conservation and Transfer Project Habitat Conservation~~
6 ~~Plan prepared by the Imperial Irrigation District for the purpose of~~
7 ~~obtaining compliance with the California Endangered Species Act~~
8 ~~(Chapter 1.5 (commencing with Section 2050)) for the~~
9 ~~Quantification Settlement Agreement water transfers.~~

10 ~~(b) Except as otherwise provided in this chapter, the taking of~~
11 ~~any species enumerated in subdivision (a) shall be authorized~~
12 ~~under the same conditions as the commission or the department~~
13 ~~may authorize the taking of an endangered, threatened, or~~
14 ~~candidate species pursuant to Chapter 1.5 (commencing with~~
15 ~~Section 2050) or Chapter 10 (commencing with Section 2800).~~

16 ~~2962. (a) All requirements of the California Endangered~~
17 ~~Species Act (Chapter 1.5 (commencing with Section 2050)), and~~
18 ~~Sections 3503.5, 3505, 3511, 4700, 5050, and 5515 relating to~~
19 ~~impacts or potential impacts at the Salton Sea on any species,~~
20 ~~resulting from conservation measures, water transfers, and any~~
21 ~~other actions carried out in furtherance of the Quantification~~
22 ~~Settlement Agreement are deemed satisfied as of January 1, 2002,~~
23 ~~and for the period that the Quantification Settlement Agreement~~
24 ~~is in effect. Any such impacts to the Salton Sea shall be addressed~~
25 ~~by the feasibility study conducted pursuant to Section 101(b) of the~~
26 ~~Salton Sea Reclamation Act of 1998 (P.L. 105-372). If the~~
27 ~~Quantification Settlement Agreement is not executed on or before~~
28 ~~December 31, 2002, this section shall not be operative.~~

29 ~~(b) Nothing in this section alters existing law regarding~~
30 ~~compliance with the California Endangered Species Act (Chapter~~
31 ~~1.5 (commencing with Section 2050)) for impacts or potential~~
32 ~~impacts of the Quantification Settlement Agreement that may~~
33 ~~occur at a location other than the Salton Sea.~~

34 ~~2963. If the feasibility study described in Section 101(b) of~~
35 ~~the Salton Sea Reclamation Act of 1998 (P.L. 105-372) is not~~
36 ~~completed by December 31, 2002, the operation of Sections 2961~~
37 ~~and 2962 is suspended on that date until the feasibility study is~~

1 ~~completed, at which time Sections 2961 and 2962 shall again~~
2 ~~become operative.~~

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