



CITY OF MURRIETA

May 19, 2021

The Honorable Lorena Gonzalez
Chair, Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, CA 95814

RE: AB 377 (Rivas) Water Quality: Impaired Waters.
Notice of OPPOSITON (*As Amended 04/13/21*)

Dear Assembly Member Gonzalez,

The City of Murrieta must respectfully oppose AB 377 (Rivas), which would fundamentally alter the State of California's existing water quality programs without providing any solutions that would result in the sustainable attainment of water quality objectives. AB 377 circumvents the regulatory authority of the State and Regional Water Boards by legislating the rewriting of existing permitting policies, without regulatory discussions that would inform local conditions, existing agreements, and other priorities of the state. Additionally, AB 377 assumes hard statutory deadlines are required to meet water quality standards. Lastly, AB 377 enforcement actions would increase the financial burden of an already under-funded public utility and deviate significantly from a sustainable approach of restoring beneficial uses in surface water as intended.

The approach outlined in AB 377 is foundationally flawed in that it is based on the notion that limiting discretion and flexibility in State and Regional Water Board authority would result in attainment of the beneficial uses of water. The bill legislatively proposes a new prescriptive enforcement program with statutorily defined time limits that would circumvent the regulatory permitting process and effectively eliminate State and Regional Water Board discretionary authority for permitting and enforcement of water quality objectives. The Porter-Cologne Water Quality Control Act established the nine Regional Water Boards, which provide for regional discretionary authority for permitting. Regional discretionary authority is tantamount to state and regional board oversight and regulation of water quality in the State of California. To instead have the Legislature set prescriptive compliance terms for all water segments, as this bill does, without State and Regional Water Board discretionary authority, would be a significant policy departure with severe adverse consequences that would be contrary to the goals of the State and these programs.

The bill further limits the discretion and flexibility in State and Regional Water Board discretionary authority by requiring the rigid enforcement of permit violations. Since the Water Boards already have broad and discretionary authority to enforce water quality requirements, the terms of the bill could be interpreted to mean that the Water Boards must enforce all violations to the maximum extent, even in cases where they may otherwise choose alternative approaches. In many cases, it is preferable to work toward a solution with the permit holder to remediate the issue, rather than exacting exorbitant penalties. This would allow for a sustainable approach to restoring beneficial uses in surface water. Further, the rigid



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enforcement of penalties creates a “polluter pays” approach to generating revenue for water quality programs administered by the water board which is contrary to existing statute dictating how these programs are funded, and is a concept that has been rejected by the legislature in the past.

Additionally, AB 377 presumes the reason that water quality standards are not met in some instances, is because there are no hard statutory deadlines in place. This presumption is false. There are many reasons for prolonged timeframes for remediating impaired bodies of water, including sufficient monitoring to demonstrate compliance with water quality standards. The regional boards, in cooperation with permitted entities, consider a multitude of dynamic local factors for meeting water quality objectives through extensive and rigorous regulatory processes. Given the complexities involved with multiple point source and non-point source inputs that must be considered, coupled with constantly evolving limits for existing, new and emerging constituents of concern, long-term management tools and compliance periods are appropriate in many cases. Not only do extended water quality compliance schedules provide for scientific certainty and oversight – a hallmark of science-based policy – they also ensure that public funds are being expended for proven treatment and control projects that will meet compliance objectives as they are intended.

Lastly, AB 377 does not recognize that municipal storm water efforts are one of the most under-funded public utilities in California due to court decisions requiring the balloting process for approval of storm water fees. An important distinction for storm water dischargers is the significant challenges for securing funding for the resources and infrastructure necessary to manage these discharges. Legislatively mandating municipalities to remediate all urban runoff pollution issues including legacy and ongoing aerial deposition pollutant issues by 2050 through enforcement of penalties when voter approval of a funding source is necessary to solve the problem, is a real and difficult task. Enforcement of penalties through enactment of AB 377 would require municipalities to incur fees which would exacerbate the existing municipal storm water funding shortfall.

Overall, the City of Murrieta believes that AB 377 is unworkable and would not provide for a sustainable approach to restoring beneficial uses in surface water. Realistically, to make additional progress toward the end goal of this bill we would need additional resources, including funding, flexibility, and creativity to solve real problems. For these reasons, the City of Murrieta opposes AB 377 (Rivas). If you have any questions, or need more information about the City’s position, please contact Louie Lacasella, City Manager’s Office at (951) 461-6008 or llacasella@MurrietaCA.Gov.

Sincerely,

Scott Vinton
Mayor



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Cc: Murrieta City Council
Senator Melissa Melendez
Assembly Member Kelly Seyarto
Erin Sasse, League of California Cities