



May 5, 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 Los Angeles County Division of the League of California Cities (Division) representing 86 cities in the county, must respectfully oppose AB 377 (Rivas), which would fundamentally alter the State of California's existing water quality programs without providing any solutions that will result in the attainment of water quality objectives. Additionally, AB 377 circumvents the local regulatory authority of the Regional Water Boards and instead legislates the rewriting of existing permitting policies, without regard to local conditions, existing agreements, or other priorities of the state.

The approach outlined in AB 377 is foundationally flawed in that it is based on the notion that limiting discretion and flexibility in local permitting will result in attainment of a beneficial uses of water. The bill proposes a new prescriptive enforcement program with statutorily defined time limits that eliminate State and Regional Water Board discretionary authority for permitting and enforcement of water quality objectives. Under the Porter-Cologne Water Quality Control Act which predates the federal Clean Water Act, local discretionary authority for permitting is tantamount to the design and structure of 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 every single discharge permit throughout the State, as this bill does, would be a significant policy departure with severe adverse consequences and contrary to the goals of the State and these programs.

AB 377 seemingly presumes the reason that water quality standards are not met in some instances, and various total maximum daily loads (TMDLs) have not been developed and implemented, 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 the fact that water quality standards are constantly evolving. The regional boards, in cooperation with permitted entities, consider a multitude of dynamic local factors for meeting water quality objectives through very detailed and rigorous regulatory processes. Given

**2020-21 OFFICERS AND
BOARD OF DIRECTORS**

PRESIDENT

BLANCA PACHECO
DOWNEY

VICE PRESIDENT

JAMES BOZAJIAN
CALABASAS

SECRETARY/TREASURER

ANDREW CHOU
DIAMOND BAR

STATE LEAGUE DIRECTOR

ANA MARIA QUINTANA
BELL

IMMEDIATE PAST PRESIDENT

JESS TALAMANTES
BURBANK

REGIONAL DIRECTORS

ARROYO VERDUGO JPA

DIANA MAHMUD
SOUTH PASADENA

GATEWAY CITIES COG

STEVE CROFT
LAKEWOOD

LAS VIRGENES-MALIBU COG

KAREN FARRER
MALIBU

SAN FERNANDO VALLEY COG

MARSHA MCLEAN
SANTA CLARITA

SAN GABRIEL VALLEY COG

MARGARET CLARK
ROSEMEAD

SOUTH BAY CITIES COG

BEA DIERINGER
ROLLING HILLS

WESTSIDE CITIES COG

SUE HIMMELRICH
SANTA MONICA

CITY OF LOS ANGELES

JOHN WICKHAM
LOS ANGELES

EXECUTIVE DIRECTOR

JENNIFER QUAN

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.

Permits issued under the NPDES, WDR, and MS4 programs are incredibly varied and complex. There are significant variations within these permits depending on the type of discharger, the point of discharge and the conditions of the receiving surface water. For this reason alone, local permitting authority is incredibly important and regional approaches to the management of pollutants are a proven compliance mechanism in many circumstances. Furthermore, an important distinction for stormwater dischargers is the significant challenges for securing funding for the infrastructure necessary to manage these discharges. AB 377 does not recognize that municipal storm water efforts are one of the most under-resourced public utilities in California due to court decisions requiring balloting process for approval of storm water fees. Legislatively mandating municipalities to fix all urban runoff pollution issues, including legacy and ongoing aerial deposition pollutant issues by 2050, and when voter approval of the massive resources is necessary to solve the problem, is a real and difficult task, and one that would become even more problematic and costly if AB 377 were enacted.

Finally, the bill requires rigid enforcement of permit violations with little to no discretion or flexibility granted to enforcement staff. The Water Boards already have broad and discretionary authority to enforce water quality requirements. This could be interpreted to mean that the Board 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 type of “polluter pays” approach to generating revenue for water quality programs administered by the water board runs contrary to existing statute dictating how these programs are funded, and is a concept that has been rejected by the legislature in the past.

Overall, the Division believes that AB 377 is unworkable and should not move forward. Realistically, to make additional progress toward the end goal of this bill we need more tools, flexibility, and creativity to solve real problems.

For the reasons described above, the Los Angeles County Division opposes AB 377.



Blanca Pacheco
President
Los Angeles County Division
League of California Cities

