



# LAO Issues Report Criticizing the “Make Conservation a California Way of Life” Framework – Are Changes Coming?

01.16.2024 | By [Alexander J. Van Roekel](#)

On January 4, 2024, the Legislative Analyst's Office (LAO) issued its statutorily-mandated report – “Assessing Early Implementation of Urban Water Use Efficiency Requirements” – analyzing the implementation of the “Make Conservation a California Way of Life” framework. That framework, which consists of statutory requirements and draft State Water Resources Control Board (State Water Board) regulations, sets out water use objectives (WUOs) for urban water agencies. The LAO’s report is critical of the framework both in regard to the statutory requirements and the State Water Board’s draft regulations. Whether this analysis has any impact at the legislative or agency level is something to watch for 2024.

The framework is incredibly complex, but its core concept is relatively simple – urban water agencies are required to meet water use objectives (*i.e.*, budgets) each year and those budgets decrease over time. The budget is based on four components:

1. residential outdoor use;
2. residential indoor use;
3. commercial, industrial, and institutional (CII) landscapes with dedicated irrigation meters;
4. and water loss.

Agencies may also earn variances based on certain uses or other challenges as well as incentives for potable water reuse.

Also noteworthy is that the framework includes substantial reporting requirements, which have already begun. The State Water Board has a variety of tools to enforce both the water budgets and reporting requirements, including the ability to issue informational orders, written notices (starting 1/2025),

conservation orders (starting 1/2026), and monetary penalties (starting 11/2027).

## History

---

As noted in the LAO report, the real genesis for the framework was the Water Conservation Act of 2009, which set up the 20x2020 goal to reduce water use 20% by 2020. Agencies met this goal by 2014. The framework itself came from two 2018 bills – SB 606 and AB 1668. Other bills/gubernatorial actions have since changed the framework, most notably SB 1157 from 2022, which lowered the budget by lowering the indoor residential use requirements.

Since the framework was passed, state agencies have begun implementing parts of it. Those agencies include the Department of Water Resources, which completed various studies and collected relevant data. However, it is the State Water Board that carries the heaviest burden as the agency responsible for drafting the implementing regulations. It issued draft regulations in August 2023.

Another key action from the State Water Board was drafting the Standardized Regulatory Impact Assessment, which is essentially a cost-benefit analysis. That report ultimately found that the benefits of the framework would outweigh its costs. However, an analysis by independent consultant M. Cubed concluded that there were a variety of errors in the State Water Board’s analysis and the costs actually far outweigh (*i. e.*, nearly double) the benefits.

## LAO Report

---

SB 606 required LAO, by January 10, 2024, to “provide to the appropriate policy committees of both houses of the Legislature and the public a report evaluating the implementation of the water use efficiency standards and water use reporting pursuant to this chapter.” It also detailed the report’s requirements. While delayed implementation of the framework prevented LAO from meeting some of those requirements, its analysis still covers the framework and its history, LAO’s assessment thereof, and LAO’s recommendations. The below notes LAO’s primary points in its assessment and recommendations with additional detail/context where beneficial/noteworthy:

### Assessment

- Impacts to Individual Suppliers Will Vary Significantly
  - Agencies are nearly evenly split into five groups with regard to the size of the reduction they will need to make: (1) 0%, (2) 0-10%, (3) 10-20%, (4) 20-30%, (5) 30%+
- Proposed Regulations Are Overly Complicated and in Places Lack Clarity
  - One area that is particularly unclear is when agencies must stop irrigating non-functional turf with potable water – the framework says July 1, 2025 whereas other legislation starts in 2027.
- Achieving the Water Use Objective Likely to Be Challenging and Costly
  - Even though technically the only input-specific standard agencies are required to meet is for water loss, since the State Water Board set other requirements so stringently, agencies may instead have to meet all input-specific standards to meet the overall budget.
    - This removes the flexibility that was otherwise built into the framework.
    - The State Water Board set a number of standards to stricter levels than the Department of Water Resources recommended.

- Framework Could Create Disproportionate Impacts on Lower Income Californians
- Water Savings Due to Conservation Framework Likely to Be Modest
  - The State Water Board's recommendations and predictions would lead to a 440,000-acre-foot reduction, which is only about 1% of the state's current water use.
- Unclear How Any Water Savings Would Be Used
- Unclear if the Framework's Benefits Will Outweigh the Costs
  - Found that M. Cubed's cost-benefit analysis raises some credible critiques of the State Water Board's analysis.

## **Recommendations**

- Use Legislative Oversight Tools to Reevaluate Framework at Key Milestones
  - Use legislative oversight authority to make changes as needed.
- Reduce Complexity by Refining Statute and Requiring Corresponding Changes in Regulations
  - Simplify CII requirements or consider allowing alternative compliance pathways.
  - Simplify the process for applying for variances and decrease threshold.
  - Clarify other implementation details.
  - Give suppliers the option of reporting on a calendar or fiscal year basis.
- Support Suppliers in Achieving WUOs
  - Allow suppliers to use SWRCB's WUO estimates.
  - Require DWR to provide more robust technical assistance to suppliers.
  - Consider easing some of the individual standards.
  - Extend some deadlines.
- Consider Options for Reducing Burden on Lower Income Customers
  - Consider how new and existing state programs and funding could support urban conservation goals.
- Develop Strategy for How Water Savings Could Be Tracked and Used
  - Identify a coordinated approach to accounting for and taking advantage of water savings.

## **Analysis**

LAO's analysis of the framework is primarily critical, including noting in its conclusion that it is "highly questionable" as to whether the benefits will merit the cost and time/effort requirements. Overall, its assessment and recommendations seem fair and like they would benefit both the agencies tasked with achieving the framework as well as the state itself by making successful implementation more likely.

One area on which LAO focused was a lack of clarity as well as other issues surrounding timing. Both the Department of Water Resources and the State Water Board have missed statutorily-mandated deadlines in terms of making recommendations, providing data, and more. Most notably, the State Water Board was required to finalize regulations by June 30, 2022, and those will likely be finalized roughly two years late in the summer of 2024. Those delays are wholly reasonable based on the impact of the COVID-19 pandemic. However, those delays have not trickled down to the agencies actually responsible for meeting the water use objectives or to any of the deadlines by which certain numbers must be met. It seems illogical and inequitable for agencies to essentially lose roughly two years of preparation time through no fault of their own. This timing issue appears to be the most common sense as well as likely one of the simplest changes

to make.

Other LAO recommendations also track logically and are worth serious consideration. Impacts to low-income people both through higher bills and costs of making certain changes (e.g., replacing lawns or shower heads) are something that deserves focus. More fundamentally though, what seems like the most substantial issue that LAO identified is that the input standards are so stringent that the WUO is turned into meeting four different requirements. The flexibility designed into the standard to be able to be weaker in one area and make up for it in another increases the likelihood the overall standard will be met and allows agencies to factor in local circumstances.

## What's Next

---

The LAO report is something the Legislature required as part of initially creating the framework. This upcoming cycle will be the one to watch to see whether the report leads to any subsequent legislation/changes to the framework, given both the recency of the report and upcoming institution of many of its requirements.

Another reason to expect the Legislature to act sooner rather than later is the fact that the State Water Board will likely finalize its regulations in the middle of 2024. Legislative action prior to that point may lead to changes to the regulations before they are finalized.

Conversely, even though the LAO report was technically directed to the Legislature, the State Water Board has the opportunity to adjust its draft regulations based on the report. However, if the Legislature does not act, it seems like the State Water Board may take that as a sign to proceed as planned.

The framework and its deadlines are starting to arrive, including the reporting requirements which are already here. This year, along with any actions the Legislature and the State Water Board do or do not take, will likely heavily influence whether or not the state really does “Make Conservation a California Way of Life.”