

AMENDED IN SENATE JUNE 4, 2018
AMENDED IN ASSEMBLY MARCH 21, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 327

**Introduced by Assembly Member Gipson
(~~Coauthor: Assembly Member Brough~~)**

February 7, 2017

An act to ~~add and repeal Section 6010.15 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. amend Section 40447.5 of the Health and Safety Code, relating to vehicular air pollution.~~

LEGISLATIVE COUNSEL’S DIGEST

AB 327, as amended, Gipson. ~~Sales and use taxes: exclusion: pawnbrokers: transfer of vested property. South Coast Air Quality Management District: fleets.~~

Existing law authorizes the governing board of the South Coast Air Quality Management District to adopt rules and regulations that require specified operators of public and commercial fleet vehicles consisting of 15 or more vehicles, when adding vehicles or replacing vehicles in an existing fleet or forming a new fleet, to purchase vehicles that are capable of operating on methanol or other equivalently clean-burning alternative fuel and that require these vehicles to be operated, to the maximum extent feasible, on the alternative fuel when operating in the south coast district.

This bill instead would authorize the governing board of the south coast district to adopt rules and regulations that require specified operators of public and commercial fleet vehicles consisting of 15 or

more vehicles to purchase the cleanest commercially available vehicles, as defined, that will meet the operator's operational needs; to require the replacement of no more than 15% of existing vehicles per calendar year, as specified; and to require those cleanest commercially available vehicles to be operated, to the maximum extent feasible, in the south coast district.

This bill would make legislative findings and declarations as to the necessity of a special statute for the south coast district.

~~Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law defines "sale" and "purchase" for these purposes and provides certain exclusions from those definitions.~~

~~Existing law regulates pawnbrokers by, among other things, requiring every loan made by a pawnbroker for which goods are received in pledge as security to be evidenced by a written contract, a copy of which is required to be furnished to the pledgor. Existing law requires the loan period of a loan contract to be no less than 4 months, and requires the loan contract to set forth the loan period, the date on which the loan is due and payable, and to clearly inform the pledgor of his or her right to redeem the pledge during the loan period. Existing law provides procedures by which a pawnbroker may become vested with the title to pledged property.~~

~~This bill, until January 1, 2022, would provide that "sale" and "purchase" do not include the transfer of vested property, as defined, by a pawnbroker to a person who pledged the property to the pawnbroker as security for a loan and from whom title transferred to the pawnbroker if specified requirements are met, thus excluding that transfer from imposition of sales and use tax.~~

~~The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes cities and counties to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.~~

~~Existing law requires the state to reimburse cities and counties for revenue losses caused by the enactment of sales and use tax exemptions.~~

~~This bill would provide that, notwithstanding these provisions, no appropriation is made and the state shall not reimburse cities and counties for sales and use tax revenues lost by them pursuant to this bill.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.

State-mandated local program: no.

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

1 SECTION 1. Section 40447.5 of the Health and Safety Code
2 is amended to read:
3 ~~40447.5. Notwithstanding~~
4 40447.5. (a) For purposes of this section, the following
5 definitions apply:
6 (1) “Cleanest commercially available vehicle” means a vehicle
7 operated with a fuel or technology that substantially reduces
8 emissions of oxides of nitrogen and is technically feasible, as
9 defined by the south coast district board.
10 (2) “Commercial fleet vehicle,” is not limited to a vehicle that
11 is operated for hire, compensation, or profit, and is limited to a
12 vehicle that is under contract or exclusive franchise to a state,
13 regional, or local agency that is any of the following:
14 (A) Light- and medium-duty vehicles.
15 (B) Vehicles used to provide any of the following:
16 (i) Passenger bus transportation.
17 (ii) Solid waste collection.
18 (iii) Passenger transportation to and from commercial airports.
19 (iv) Schoolbuses.
20 (v) Sweeping services.
21 (C) Vehicles in a fleet that is carrying out functions that were
22 previously provided by fleets that were owned by a state, regional,
23 or local agency on January 1, 2018, and that is subsequently under
24 contract or exclusive franchise after that date.
25 (3) “Medium-duty vehicle” means a vehicle with a gross vehicle
26 weight rating of more than 6,000 pounds and less than 14,000
27 pounds.
28 (b) ~~Notwithstanding any other provision of law,~~ the south coast
29 district board may adopt rules or regulations that do all of the
30 following:

1 (a)

2 (1) Require operators of public and commercial fleet vehicles,
3 consisting of 15 or more vehicles under a single owner or lessee
4 and operating substantially in the south coast district, ~~when adding~~
5 ~~vehicles to or replacing vehicles in an existing fleet or purchasing~~
6 ~~vehicles to form a new fleet, to purchase vehicles which are capable~~
7 ~~of operating on methanol or other equivalently clean burning~~
8 ~~alternative fuel and to require district to purchase the cleanest~~
9 ~~commercially available vehicles that will meet the operator's~~
10 ~~operational needs and require the replacement of no more than~~
11 ~~15 percent of existing vehicles per calendar year with due~~
12 ~~consideration given to a vehicle's useful life. The south coast~~
13 ~~district may require that these vehicles be operated, to the~~
14 ~~maximum extent feasible, on the alternative fuel when operating~~
15 ~~in the south coast district. Notwithstanding Section 39021, as used~~
16 ~~in this subdivision, the term "commercial fleet vehicles" is not~~
17 ~~limited to vehicles that are operated for hire, compensation, or~~
18 ~~profit. No A rule or regulation adopted pursuant to this paragraph~~
19 ~~shall not apply to emergency vehicles operated by local law~~
20 ~~enforcement agencies, fire departments, agencies or fire~~
21 ~~departments or to paramedic and rescue vehicles until the south~~
22 ~~coast district board finds and determines that the alternative fuel~~
23 ~~is available at sufficient locations so that cleanest commercially~~
24 ~~available vehicles will not impair the emergency response~~
25 ~~capabilities of those vehicles is not impaired. vehicles.~~

26 (b)

27 (2) Encourage and facilitate ridesharing for commuter trips into,
28 out of, and within the south coast district.

29 (c)

30 (3) Prohibit or restrict the operation of heavy-duty trucks during
31 ~~the hours of the heaviest commuter traffic on freeways and other~~
32 ~~high-traffic-volume high-traffic-volume highways. In adopting~~
33 ~~rules and regulations pursuant to this paragraph, the south coast~~
34 ~~district shall consult with the Department of Transportation and~~
35 ~~Transportation, the Department of the California Highway Patrol~~
36 ~~Patrol, and the transportation commission of each county in the~~
37 ~~south coast district. No A rule or regulation adopted pursuant to~~
38 ~~this paragraph shall, however, paragraph, however, shall not~~
39 ~~prohibit or restrict the operation of any heavy-duty truck engaged~~
40 ~~in the hauling of solid or hazardous waste or a toxic substance if~~

1 that truck is required to be operated at certain times of *the* day
2 pursuant to an ordinance adopted for the protection of public health
3 or safety by a city or county or any heavy-duty truck required to
4 be operated at certain times of the day pursuant Section 25633 of
5 the Business and Professions Code.

6 *SEC. 2. The Legislature finds and declares that a special statute*
7 *is necessary and that a general statute cannot be made applicable*
8 *within the meaning of Section 16 of Article IV of the California*
9 *Constitution because of the unique needs of the South Coast Air*
10 *Basin, which is designated as federal extreme nonattainment for*
11 *ozone.*

12 ~~SECTION 1. Section 6010.15 is added to the Revenue and~~
13 ~~Taxation Code, to read:~~

14 ~~6010.15. (a) "Sale" and "purchase" for the purposes of this~~
15 ~~part do not include the transfer of title to vested property by a~~
16 ~~pawnbroker to a person who pledged the property to the~~
17 ~~pawnbroker as security for a loan and from whom title to the~~
18 ~~property transferred to the pawnbroker pursuant to Section 21201~~
19 ~~of the Financial Code, if all of the following requirements are met:~~

20 ~~(1) The transfer occurs no more than six months after title to~~
21 ~~the property transferred to the pawnbroker from the person pursuant~~
22 ~~to Section 21201 of the Financial Code.~~

23 ~~(2) As consideration for the transfer of the property, the person~~
24 ~~is required to pay the pawnbroker only the remaining unpaid~~
25 ~~balance of the loan, including accrued charges and interest, as of~~
26 ~~the date the pawnbroker becomes vested with title to the property,~~
27 ~~together with one of the following:~~

28 ~~(A) For an original loan amount not exceeding two thousand~~
29 ~~four hundred ninety-nine dollars and ninety-nine cents (\$2,499.99),~~
30 ~~charges and interest allowable under the loan pursuant to Chapter~~
31 ~~2 (commencing with Section 21200) of Division 8 of the Financial~~
32 ~~Code, from the date the pawnbroker is vested with title to the~~
33 ~~property to the date of the transfer to the person who pledged the~~
34 ~~property.~~

35 ~~(B) For an original loan amount of two thousand five hundred~~
36 ~~dollars (\$2,500) or more, charges and interest due in accordance~~
37 ~~with the last monthly contractual interest rate, from the date the~~
38 ~~pawnbroker is vested with title to the property until the date of the~~
39 ~~transfer to the person who pledged the property.~~

1 ~~(3) The person has proof, such as a receipt or similar document~~
2 ~~provided to the purchaser, that the person originally paid sales tax~~
3 ~~on the item.~~

4 ~~(b) As used in this section:~~

5 ~~(1) “Pawnbroker” has the meaning described in Section 21000~~
6 ~~of the Financial Code.~~

7 ~~(2) “Vested property” has the meaning described in subdivision~~
8 ~~(b) of Section 21002 of the Financial Code.~~

9 ~~(c) This section shall become inoperative and shall be repealed~~
10 ~~on January 1, 2022.~~

11 ~~SEC. 2. Notwithstanding Section 2230 of the Revenue and~~
12 ~~Taxation Code, no appropriation is made by this act and the state~~
13 ~~shall not reimburse cities and counties for any sales and use tax~~
14 ~~revenues lost by them under this act.~~

15 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
16 ~~Article IV of the California Constitution and shall go into~~
17 ~~immediate effect.~~

AMENDED IN SENATE JUNE 13, 2018

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2064

Introduced by Assembly Members Gloria and Weber

February 7, 2018

An act to amend Section 10551 of, and to add ~~Section 10551.5~~ *Sections 10551.2, 10551.4, 10551.6, and 10551.9* to, the Water Code, relating to water.

LEGISLATIVE COUNSEL’S DIGEST

AB 2064, as amended, Gloria. Integrated regional water management plans: grants: advanced payment.

Existing law, the Integrated Regional Water Management Planning Act, authorizes a regional water management group to prepare and adopt an integrated regional water management plan with specified components relating to water supply and water quality. Existing law provides that an integrated regional water management plan is eligible for funding allocated specifically for implementation of integrated regional water management.

Existing law, until January 1, 2025, requires a regional water management group, within 90 days of notice that a grant has been awarded, to provide the Department of Water Resources with a list of projects to be funded by the grant funds if the project proponent is a nonprofit organization or a disadvantaged community or the project benefits a disadvantaged community. Existing law requires the department, within 60 days of receiving this project information, to

provide advanced payment of 50% of the grant award for those projects that satisfy specified criteria, including that the grant award for the project is less than \$1,000,000, and requires the advanced funds to be handled as prescribed, including that the funds are required to be spent within 6 months of the date of receipt unless the department waives this requirement.

The bill, until January 1, 2025, would require the department to provide a project proponent that requests ~~and demonstrates a need for~~ advanced payment *and satisfies certain criteria* with advanced payment for those projects of \$500,000 or 50% of the grant award, whichever is less. The bill would eliminate the requirement that the grant award for the project be less than \$1,000,000 to obtain advanced payment. The bill would require a project proponent, upon completion of the first one-half of a project receiving an above-described grant award, to provide a first one-half project accountability report to the department that reports the completion of objectives for the first one-half of the project and documents the expenditure and use of advanced grant funds. The bill would require the department to provide advanced payment of the remaining grant award *for a project that received advanced payment for the first one-half of the project* within 60 days of receiving the report if the project meets certain ~~criteria and would require the advanced funds to be handled as prescribed, including that the funds are required to be spent within 6 months of the date of receipt unless the department waives this requirement.~~ *criteria*. The bill would ~~authorize~~ *require* the department to withhold ~~up to 10% of the remaining advanced grant award as retention proceeds that the department is required to release fully to the project proponent upon verification by the department of project completion.~~ The bill would require a project proponent to submit a final project accountability report to the department upon completion of the project.

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

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

- 1 SECTION 1. Section 10551 of the Water Code is amended to
- 2 read:
- 3 10551. (a) Within 90 days of notice that a grant for projects
- 4 included and implemented in an integrated regional water
- 5 management plan has been awarded, the regional water

1 management group shall provide the department with a list of
2 projects to be funded by the grant funds where the project
3 proponent is a nonprofit organization or a disadvantaged
4 community, or the project benefits a disadvantaged community.
5 The list shall specify how the projects are consistent with the
6 adopted integrated regional water management plan and shall
7 include all of the following information:

8 (1) Descriptive information concerning each project identified.

9 (2) The names of the entities that will receive the funding for
10 each project, including, but not limited to, an identification as to
11 whether the project proponent or proponents are nonprofit
12 organizations or a disadvantaged community.

13 (3) The budget of each project.

14 (4) The anticipated schedule for each project.

15 (5) *The qualifications of the project proponent to manage the*
16 *project and the finances of the project pursuant to this chapter.*

17 (b) Within 60 days of receiving the project information pursuant
18 to subdivision (a), the department shall provide a project proponent
19 that requests ~~and demonstrates a need for an~~ advanced payment
20 with advanced payment of five hundred thousand dollars
21 (\$500,000) or 50 percent of the grant award, whichever is less, ~~for~~
22 ~~projects in which the project proponent is a nonprofit organization~~
23 ~~or a disadvantaged community, or the project benefits a~~
24 ~~disadvantaged community.~~ *provided that the project satisfies the*
25 *following criteria:*

26 (1) *The project proponent is a nonprofit organization or a*
27 *disadvantaged community or the project benefits a disadvantaged*
28 *community.*

29 (2) *The project proponent has demonstrated to the department's*
30 *satisfaction a need for an advance payment.*

31 (3) (A) *The project proponent has demonstrated to the*
32 *department's satisfaction that the project proponent is sufficiently*
33 *qualified to manage the project and the finances of the project.*

34 (B) *If the department is not satisfied that the project proponent*
35 *is sufficiently qualified to manage the project and the finances of*
36 *the project, the department may impose additional requirements*
37 *on the project proponent, including requiring additional partners*
38 *to manage the project, the financing, or both.*

39 ~~(c) Funds advanced pursuant to subdivision (b) shall be handled~~
40 ~~as follows:~~

1 ~~(1) The recipient shall place the funds in a noninterest-bearing~~
2 ~~account until expended.~~

3 ~~(2) The funds shall be spent within six months of the date of~~
4 ~~receipt, unless the department waives this requirement.~~

5 ~~(3) The recipient shall, on a quarterly basis, provide an~~
6 ~~accountability report to the department regarding the expenditure~~
7 ~~and use of any advanced grant funds that provides, at a minimum,~~
8 ~~the following information:~~

9 ~~(A) An itemization as to how advanced payment funds provided~~
10 ~~under this section have been expended.~~

11 ~~(B) A project itemization as to how any remaining advanced~~
12 ~~payment funds provided under this section will be expended over~~
13 ~~the period specified in paragraph (2).~~

14 ~~(C) Whether the funds are placed in a noninterest-bearing~~
15 ~~account, and if so, the date that occurred and the dates of~~
16 ~~withdrawals of funds from that account, if applicable.~~

17 ~~(4) If funds are not expended, the unused portion of the grant~~
18 ~~shall be returned to the department within 60 days after project~~
19 ~~completion or the end of the grant performance period, whichever~~
20 ~~is earlier.~~

21 ~~(5) The department may adopt additional requirements for the~~
22 ~~recipient regarding the use of the advanced payment to ensure that~~
23 ~~the funds are used properly.~~

24 ~~(d) As used in this section:~~

25 ~~(1) “Disadvantaged community” has the same meaning as~~
26 ~~defined in subdivision (j) of Section 79702.~~

27 ~~(2) “Nonprofit organization” has the same meaning as defined~~
28 ~~in subdivision (p) of Section 79702.~~

29 ~~SEC. 2. Section 10551.2 is added to the Water Code, to read:~~
30 ~~10551.2. Funds advanced pursuant to this chapter shall be~~
31 ~~handled as follows:~~

32 ~~(a) The recipient shall place the funds in a noninterest-bearing~~
33 ~~account until expended.~~

34 ~~(b) The funds shall be spent within six months of the date of~~
35 ~~receipt, unless the department waives this requirement.~~

36 ~~(c) The recipient shall, on a quarterly basis, provide an~~
37 ~~accountability report to the department regarding the expenditure~~
38 ~~and use of any advanced grant funds that provides, at a minimum,~~
39 ~~the following information:~~

1 (1) An itemization as to how advanced payment funds provided
2 under this chapter have been expended.

3 (2) A project itemization as to how any remaining advanced
4 payment funds provided under this chapter will be expended over
5 the period specified in subdivision (b).

6 (3) Whether the funds are placed in a noninterest-bearing
7 account, and if so, the date that occurred and the dates of
8 withdrawals of funds from that account, if applicable.

9 (4) An evaluation of whether the project is on schedule or not.
10 If the project is behind schedule, the report shall identify what has
11 caused the delay and actions taken or being taken to remedy the
12 delay.

13 (d) If funds are not expended, the unused portion of the grant
14 shall be returned to the department within 60 days after project
15 completion or the end of the grant performance period, whichever
16 is earlier.

17 (e) The department may adopt additional requirements for the
18 recipient regarding the use of the advanced payment to ensure
19 that the funds are used properly, including provisions for random
20 audits and other verifications of the authorized use of funds.

21 ~~SEC. 2.~~

22 ~~SEC. 3.~~ Section ~~10551.5~~ 10551.4 is added to the Water Code,
23 to read:

24 ~~10551.5.~~

25 10551.4. (a) Upon completion of the first one-half of a project
26 receiving a grant award pursuant to this chapter, the project
27 proponent shall provide a first one-half project accountability
28 report to the department that reports the completion of objectives
29 for the first one-half of the project and documents the expenditure
30 and use of advanced grant funds.

31 (b) Within 60 days of receiving the report pursuant to
32 subdivision (a), the department shall provide advanced payment
33 of the remaining ~~50 percent of the~~ grant award for ~~those projects~~
34 ~~a project~~ that received advanced payment for the first one-half of
35 ~~the project, project and meet~~ meets both of the following criteria:

36 (1) The department determines that the project proponent has
37 completed identified project objectives within the first one-half of
38 the project.

1 (2) The department determines that the originally advanced
2 grant award has been expended consistent with the guidelines and
3 requirements provided by the department.

4 (c) The department ~~may withhold up to~~ *shall withhold* 10 percent
5 of the advanced *total* grant award ~~provided pursuant to subdivision~~
6 ~~(b)~~ as retention proceeds.

7 ~~(d) Funds advanced pursuant to subdivision (b) shall be handled~~
8 ~~as follows:~~

9 ~~(1) The recipient shall place the funds in a noninterest-bearing~~
10 ~~account until expended.~~

11 ~~(2) The funds shall be spent within six months of the date of~~
12 ~~receipt, unless the department waives this requirement.~~

13 ~~(3) The recipient shall, on a quarterly basis, provide an~~
14 ~~accountability report to the department regarding the expenditure~~
15 ~~and use of any advanced grant funds that provides, at a minimum,~~
16 ~~the following information:~~

17 ~~(A) An itemization as to how advanced payment funds provided~~
18 ~~under this section have been expended.~~

19 ~~(B) A project itemization as to how any remaining advanced~~
20 ~~payment funds provided under this section will be expended over~~
21 ~~the period specified in paragraph (2).~~

22 ~~(C) Whether the funds are placed in a noninterest-bearing~~
23 ~~account, and if so, the date that occurred and the dates of~~
24 ~~withdrawals of funds from that account, if applicable.~~

25 ~~(4) If funds are not expended, the unused portion of the grant~~
26 ~~shall be returned to the department within 60 days after project~~
27 ~~completion or the end of the grant performance period, whichever~~
28 ~~is earlier.~~

29 ~~(5) The department may adopt additional requirements for the~~
30 ~~recipient regarding the use of the advanced payment to ensure that~~
31 ~~the funds are used properly.~~

32 (e) Upon completion of the project, the project proponent shall
33 submit to the department a final project accountability report. The
34 department shall undertake verification of project completion and
35 once the project is deemed complete, the department shall release
36 retention proceeds fully to the project proponent.

37 (d) *Notwithstanding subdivision (b), the department may, at its*
38 *sole discretion, provide funding for the second half of the project*
39 *through a drawdown based on completion of project milestones.*

40 SEC. 4. Section 10551.6 is added to the Water Code, to read:

1 10551.6. Upon completion of the project, the project proponent
2 shall submit to the department a final project accountability report.
3 The department shall undertake verification of project completion
4 and once the project is deemed complete, the department shall
5 release any retention proceeds fully to the project proponent.

6 SEC. 5. Section 10551.9 is added to the Water Code, to read:

7 10551.9. As used in this chapter:

8 (a) “Disadvantaged community” has the same meaning as
9 defined in subdivision (j) of Section 79702.

10 (b) “Nonprofit organization” has the same meaning as defined
11 in subdivision (p) of Section 79702.

AMENDED IN ASSEMBLY APRIL 23, 2018

AMENDED IN ASSEMBLY APRIL 9, 2018

AMENDED IN ASSEMBLY MARCH 15, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2258

Introduced by Assembly Member Caballero
(Coauthor: Assembly Member Grayson)

February 13, 2018

An act to add and repeal Section 75131 of the Public Resources Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 2258, as amended, Caballero. Local agency formation commissions: grant program.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for special districts, as specified. The act requires a local agency formation commission in each county to encourage the orderly formation and development of local agencies based upon local conditions and circumstances, among other things.

Existing law also establishes the Strategic Growth Council in state government and assigns to the council certain duties, including providing, funding, and distributing data and information to local governments and regional agencies that will assist in the development and planning of sustainable communities.

This bill would require the Strategic Growth Council, until January 1, 2024, to establish and administer a local agency formation

commissions grant program for the payment of costs associated with initiating and completing the dissolution of ~~inactive districts~~, *districts listed as inactive*, the payment of costs associated with a study of the services provided within a county by a public agency, and for other specified purposes, including the initiation of an action, based on determinations found in the study, as approved by the commission. The bill would specify application submission, reimbursement, and reporting requirements for a local agency formation commission to receive grants pursuant to the bill. The bill would require the council, after consulting with the California Association of Local Agency Formation Commissions, to develop and adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program, as specified, and would exempt these guidelines, timelines, and criteria from the rulemaking provisions of the Administrative Procedure Act. The bill would make funding for the program subject to appropriation in the annual Budget Act.

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

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

- 1 SECTION 1. The Legislature hereby finds and declares:
- 2 (a) Local agency formation commissions play a critical role in
- 3 the logical formation of local agency boundaries, the promotion
- 4 of orderly development, and the efficient and effective provision
- 5 of services.
- 6 (b) It is the intent of the Legislature in adding Section 75131 to
- 7 the Public Resources Code to assist local agency formation
- 8 commissions in initiating studies of existing government agencies
- 9 and their provision of services and to consider action based on the
- 10 results of these studies, including dissolving inactive districts, for
- 11 the purpose of creating streamlined local government services and
- 12 improved efficiency in service delivery.
- 13 SEC. 2. Section 75131 is added to the Public Resources Code,
- 14 to read:
- 15 75131. (a) (1) The council shall establish and administer a
- 16 local agency formation commissions grant program for the
- 17 purposes described in subdivision (b).
- 18 (2) Program funding shall be subject to appropriation in the
- 19 annual Budget Act.

1 (3) Program funds provided to participating local agency
2 formation commissions shall be used to supplement, and not
3 supplant, existing funding and staffing levels.

4 (4) Program funds provided to participating local agency
5 formation commissions shall not be used to conduct a service
6 review of municipal services pursuant to Section 56430 of the
7 Government Code.

8 (5) All local agency formation commissions shall be eligible to
9 participate in the program.

10 (6) The council shall, after consulting with the California
11 Association of Local Agency Formation Commissions
12 (CALAFCO), adopt guidelines, timelines, and application and
13 reporting criteria for development and implementation of the
14 program to serve the purposes of this section and mutually meet
15 the needs of the council and the CALAFCO.

16 (b) The council shall award grants to local agency formation
17 commissions for any of the following purposes:

18 (1) The payment of costs associated with initiating and
19 completing the dissolution of ~~inactive districts, as defined in~~
20 ~~Section 56042 of the Government Code~~; *a special district that is*
21 *listed by the Controller as inactive* pursuant to Section 56879 of
22 the Government Code.

23 (2) The payment of costs associated with a study prepared
24 pursuant to Section 56378 of the Government Code of the services
25 provided within a county by a public agency to do either or both
26 of the following:

27 (A) Identify if there are any efficiencies to be gained in the
28 provision of services.

29 (B) Determine what alternatives, if any, exist for improving
30 efficiency and affordability of infrastructure and service delivery.

31 (3) The payment of costs to do any of the following:

32 (A) Initiate an ~~action~~; *action* described in paragraph (2) of
33 subdivision (a) of Section 56375, other than the dissolution of ~~an~~
34 ~~inactive district~~; *a special district that is listed by the Controller*
35 *as inactive pursuant to Section 56879 of the Government Code*,
36 based on determinations found in a study prepared pursuant to
37 Section 56378 of the Government Code, as approved by the
38 commission.

39 (B) Develop and implement reorganization plans with timelines
40 for expected outcomes.

1 (C) Incentivize service providers to work with the local agency
2 formation commission to develop and implement reorganization
3 plans with timelines for expected outcomes.

4 (c) (1) In order to obtain a grant award pursuant to paragraph
5 (1) of subdivision (b), a local agency formation commission shall
6 submit to the council an application for reimbursement of the costs
7 of the dissolution proceedings, in the form and manner specified
8 by the council. At a minimum, the application shall include all of
9 the following:

10 (A) The notification provided to the commission by the
11 Controller of the inactive district(s) and the requirement to initiate
12 dissolution proceedings.

13 (B) A full budget accounting for costs of the dissolution.

14 (C) All reports and documents pertaining to the final dissolution
15 action.

16 (2) The council shall review the application for reimbursement
17 and, provided all documentation is in order, issue reimbursement
18 to the local agency formation commission within 60 days of receipt
19 of the application.

20 (d) (1) In order to obtain a grant award pursuant to paragraph
21 (2) of subdivision (b) for purposes of conducting a study, a local
22 agency formation commission shall submit to the council an
23 application, in the form and manner specified by the council. At
24 a minimum, the application shall include all of the following:

25 (A) A resolution adopted by the commission authorizing
26 submission of the grant application and a commitment to review
27 and consider the recommendations and potential actions contained
28 in the study.

29 (B) A full budget accounting for estimated costs of the study to
30 be performed.

31 (C) A full explanation of the reason for the study.

32 (D) The most recent completed municipal service review or
33 study in which determinations were made by the local agency
34 formation commission indicating the agency to be studied is a
35 candidate for a change of organization or reorganization.

36 (2) The council shall review the applications submitted pursuant
37 to paragraph (1), select the program participants based on criteria
38 that furthers the purposes of this section, and notify the participants
39 of their selection within two months of receiving the application.

1 Funds shall be issued by the council to the local agency formation
2 commission within 60 days of notification.

3 (3) A local agency formation commission that receives a grant
4 pursuant to paragraph (2) of subdivision (b) shall commence the
5 study within 30 days of receipt of funding and shall complete the
6 study within two years of commencing the study. Upon completion
7 of the study, the local agency formation commission shall do all
8 of the following:

9 (A) Submit to the council a final report within 30 days of the
10 completion of the study and the commission's adoption of a
11 resolution making determinations. The report shall be in the form
12 and manner specified by the council. At a minimum, the report
13 shall include all of the following:

14 (i) The full study conducted.

15 (ii) The resolution making determinations as adopted by the
16 local agency formation commission.

17 (iii) A full budget accounting report of the funds used.

18 (iv) A reimbursement of any unexpended funds.

19 (v) The local agency formation commission's plan for future
20 action based on the study's conclusions.

21 (B) Upon the request of the council, participating local agency
22 formation commissions shall provide the council with any
23 supplemental information necessary to substantiate the information
24 contained in the report submitted pursuant to this subdivision.

25 (e) (1) A local agency formation commission that elects to
26 apply for a grant pursuant to paragraph (3) of subdivision (b) shall
27 submit to the council an application, in the form and manner
28 specified by the council. At a minimum, the application shall
29 include all of the following:

30 (A) A resolution adopted by the commission authorizing
31 submission of the application for purposes defined in the
32 application.

33 (B) Change of organization or reorganization plans with
34 timelines for expected outcomes.

35 (C) A full budget accounting for estimated costs of the action
36 to be performed.

37 (D) The most recent completed study in which determinations
38 were made by the local agency formation commission indicating
39 the agency should be reorganized or dissolved, or, if there exists

1 a municipal services review or study with like determinations that
2 is no more than five years old.

3 (2) The council shall review the applications submitted pursuant
4 to paragraph (3) of subdivision (b), select the program participants
5 based on criteria that furthers the purposes of this section, and
6 notify the participants of their selection within two months of
7 receiving the application. Funds shall be issued by the council to
8 the local agency formation commission within 60 days of
9 notification.

10 (3) A local agency formation commission that receives funds
11 pursuant to paragraph (3) of subdivision (b) shall commence action
12 within 30 days of receipt of funding.

13 (4) A local agency formation commission that receives funds
14 pursuant to paragraph (3) of subdivision (b) shall hold a public
15 hearing to consider the ~~change of organization or reorganization~~
16 ~~described in subdivision (a) of Section 56375 of the Government~~
17 ~~Code, action described in paragraph (2) of subdivision (a) of~~
18 ~~Section 56375, except the dissolution of an inactive district, and,~~
19 ~~if that change of organization or a reorganization is approved, a~~
20 ~~special district that is listed by the Controller as inactive pursuant~~
21 ~~to Section 56879 of the Government Code. If the action is~~
22 ~~approved, that local agency formation commission shall order the~~
23 ~~change of organization or reorganization subject to Section 57075~~
24 ~~of the Government Code, unless the change of organization is the~~
25 ~~dissolution of a special district other than an inactive district, that~~
26 ~~is not listed by the Controller as inactive. If the dissolution of a~~
27 ~~the special district other than an inactive district is approved, the~~
28 local agency formation commission shall order the dissolution,
29 unless a majority of protest exists pursuant to subdivision (c) of
30 Section 57077.1 of the Government Code. Upon completion of
31 the change of organization or reorganization, the local agency
32 formation commission that receives funds pursuant to paragraph
33 (3) of subdivision (b) shall do both of the following:

34 (A) Submit to the council a final report within 30 days of the
35 final action. The report shall be in the form and manner specified
36 by the council. At a minimum, the report shall include all of the
37 following:

38 (i) The final action taken by the local agency formation
39 commission.

1 (ii) If proceedings were terminated as a result of protest, all
2 necessary information pertinent to support that fact.

3 (iii) All reports and documents pertaining to the final action or
4 protest action.

5 (iv) A full budget accounting report of the funds used.

6 (v) The reimbursement of any unexpended funds.

7 (B) Upon the request of the council, the participating local
8 agency formation commission shall provide the council with any
9 supplemental information necessary to substantiate the information
10 contained in the report submitted pursuant to this subdivision.

11 (f) The Legislature finds and declares that there is a compelling
12 public interest in allowing the council to implement and administer
13 this section as expeditiously as possible, and to thereby accelerate
14 local agency formation commission efforts. The guidelines,
15 timelines, and application and reporting criteria adopted by the
16 council for purposes of this section shall be exempt from the
17 rulemaking provisions of the Administrative Procedure Act
18 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
19 Division 3 of Title 2 of the Government Code) for the purpose of
20 carrying out the duties enumerated in this section.

21 (g) For the purposes of this section, “local agency formation
22 commission” means a local agency formation commission that
23 operates in a county pursuant to the Cortese-Knox-Hertzberg Local
24 Government Reorganization Act of 2000 (Division 3 (commencing
25 with Section 56000) of Title 5 of the Government Code).

26 (h) This section shall be repealed on December 31, 2023.

AMENDED IN SENATE JUNE 20, 2018

AMENDED IN ASSEMBLY APRIL 17, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2640

Introduced by Assembly Member Wood

February 15, 2018

An act to amend Section 5515 of, and to add Section 2081.11 to, the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

AB 2640, as amended, Wood. Protected species: Lost River sucker and shortnose sucker limited take authorization.

Existing law prohibits the taking or possession of a fully protected fish, except as provided, and designates the Lost River sucker and the shortnose sucker as fully protected fish. The California Endangered Species Act prohibits the taking of an endangered or threatened species, except as specified. Under that act, the Department of Fish and Wildlife is permitted to authorize, by permit, the take of listed species if the take is incidental to an otherwise lawful activity and the impacts are minimized and fully mitigated.

This bill would permit the department to authorize, under the California Endangered Species Act, the take or possession of the Lost River sucker and shortnose sucker resulting from impacts attributable to or otherwise related to the decommissioning and removal of the Iron Gate Dam, *the Copco 1 Dam*, *the Copco 2 Dam*, or *the J.C. Boyle Dam*, *each located on the Klamath River*, consistent with the Klamath Hydroelectric Settlement Agreement, if specified conditions are met.

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

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

1 SECTION 1. Section 2081.11 is added to the Fish and Game
2 Code, to read:
3 2081.11. (a) The department may authorize, under this chapter,
4 the take or possession of the Lost River sucker (~~Deltistes luxatus~~)
5 *luxatus* and *Catostomus luxatus*) and shortnose sucker (*Chasmistes*
6 *brevirostris*) resulting from impacts attributable to or otherwise
7 related to the decommissioning and removal of the Iron Gate Dam,
8 *the Copco 1 Dam, the Copco 2 Dam, or the J.C. Boyle Dam, each*
9 *located on the Klamath River*, consistent with the Klamath
10 Hydroelectric Settlement Agreement, if all of the following
11 conditions are met:
12 (1) The department ~~determines~~ *finds* the authorized take will
13 not jeopardize the continued existence of the Lost River sucker or
14 shortnose sucker.
15 (2) The impacts of the authorized take are minimized.
16 ~~(3) The take authorization provides for the development and~~
17 ~~implementation of an adaptive management plan, approved by the~~
18 ~~department, for monitoring the effectiveness of, and adjusting as~~
19 ~~necessary, the measures to minimize the impacts of the authorized~~
20 ~~take.~~
21 *(3) The take authorization requires department approval of a*
22 *sampling, salvage, and relocation plan to be implemented and that*
23 *describes the measures necessary to minimize the take of adult*
24 *Lost River sucker and shortnose sucker associated with the*
25 *department's authorization. The plan shall provide for a sampling*
26 *effort, the results of which will provide information used to make*
27 *decisions and to implement the plan while utilizing the principles*
28 *of adaptive management.*
29 (b) This section shall not be construed to exempt the project
30 described in subdivision (a) from any other law.
31 SEC. 2. Section 5515 of the Fish and Game Code is amended
32 to read:
33 5515. (a) (1) Except as provided in this section or Section
34 2081.4, 2081.6, 2081.7, 2081.10, 2081.11, 2089.7, or 2835, a fully
35 protected fish shall not be taken or possessed at any time. No

provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected fish may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

- (1) Colorado River squawfish (*Ptychocheilus lucius*).
- (2) Thicktail chub (*Gila crassicauda*).
- (3) Mohave chub (*Gila mohavensis*).
- (4) Lost River sucker (~~*Catostomus luxatus*~~). (*Deltistes luxatus* and *Catostomus luxatus*).
- (5) Modoc sucker (*Catostomus microps*).
- (6) Shortnose sucker (*Chasmistes brevirostris*).
- (7) Humpback sucker (*Xyrauchen texanus*).
- (8) Owens pupfish (*Cyprinodon radiosus*).
- (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
- (10) Rough sculpin (*Cottus asperimus*).

AMENDED IN SENATE JUNE 18, 2018

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 25, 2018

AMENDED IN ASSEMBLY APRIL 4, 2018

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2649

Introduced by Assembly Member Arambula

February 15, 2018

An act to amend Sections ~~1242 and 1426 of, and to add Section 1432 to, 1242, 1348, 1425, 1430, 1435, 1440, 1441, 1442, and 1704.4 of, to amend the heading of Chapter 6.6 (commencing with Section 1435) of Part 2 of Division 2 of, to add the heading of Article 1 (commencing with Section 1425) to Chapter 6.5 of Part 2 of Division 2 of, to add the heading of Article 1 (commencing with Section 1435) to Chapter 6.6 of Part 2 of Division 2 of, to add Article 2 (commencing with Section 1433) to Chapter 6.5 of Part 2 of Division 2 of, and to add Article 2 (commencing with Section 1443) to Chapter 6.6 of Part 2 of Division 2 of, the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2649, as amended, Arambula. Water rights: water management. Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Existing law allows a person who has an urgent need to divert and use water to apply for, and the

board to issue, a temporary permit, as prescribed. Existing law requires an applicant to pay an application fee and a permit fee, if a temporary permit is issued, both computed as specified.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. Existing law requires a groundwater sustainability plan to be developed and implemented to meet the sustainability goal, established as prescribed.

~~This bill would require the board to prioritize a temporary permit for a project that enhances the ability of a local or state agency to capture water during high precipitation events for local storage or recharge, with certain conditions and consistent with water rights priorities and protections for fish and wildlife. The bill would exempt temporary permits for these projects from the California Environmental Quality Act. The bill would require the board to set a reduced application fee for an applicant for a temporary permit for these projects: authorize a groundwater sustainability agency or local agency to apply for, and the board to issue, a conditional temporary permit for diversion of surface water to underground storage for beneficial use that advances the sustainability goal of a groundwater basin, as specified.~~

Existing law allows a permittee or licensee who has an urgent need to change a point of diversion, place of use, or purpose of use to petition for, and the board to issue, a temporary change order, subject to certain restrictions.

This bill would authorize a groundwater sustainability agency or local agency to petition for, and the board to issue, a conditional temporary change order that authorizes the diversion of surface water to underground storage for beneficial use that advances the sustainability goal of a groundwater basin, as specified.

The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented. Under existing law, the right to water or

to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Existing law provides that the storing of water underground, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of the storage, constitutes a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

This bill would instead provide that, consistent with the applicable permit or license, any diversion of water to underground storage constitutes a diversion of water for beneficial use if the diverted water is put to beneficial use, as specified.

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

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

1 SECTION 1. Section 1242 of the Water Code is amended to
2 read:

3 1242. Consistent with the applicable permit or license, any
4 diversion of water to underground storage, including the diversion
5 of water for groundwater recharge, constitutes a diversion of water
6 for beneficial use if the diverted water is put to beneficial use
7 consistent with this division. The beneficial use of water diverted
8 to underground storage is not limited to uses requiring subsequent
9 extraction or release of the stored water and may include beneficial
10 uses such as protection of water quality made while the water is
11 in underground storage. The forfeiture periods in Sections 1240
12 and 1241 do not include any period when the water is being used
13 in the aquifer or storage area or is being held in underground
14 storage for later application to beneficial use.

15 ~~SEC. 2. Section 1426 of the Water Code is amended to read:~~

16 ~~1426. (a) The application for a temporary permit shall be~~
17 ~~completed in accordance with the provisions of Section 1260 and~~
18 ~~shall be accompanied by such maps, drawings, and other data as~~
19 ~~may be required by the board.~~

20 ~~(b) An applicant for a temporary permit shall pay an application~~
21 ~~fee, and a permit fee if a temporary permit is issued, both computed~~
22 ~~in accordance with the provisions of Chapter 8 (commencing with~~

1 Section 1525) of this part. The board shall set a reduced application
2 fee for an applicant for a temporary permit for a project that
3 enhances the ability of a local or state agency to capture high
4 precipitation events for local storage or recharge.

5 SEC. 3. Section 1432 is added to the Water Code, to read:

6 1432. (a) The board shall prioritize a temporary permit for a
7 project that enhances the ability of a local or state agency to capture
8 water during high precipitation events for local storage or recharge,
9 consistent with water rights priorities and protections for fish and
10 wildlife.

11 (b) The board shall condition any temporary permit issued
12 pursuant to this section to prohibit the diversion of water at any
13 time natural flow is insufficient to meet senior water rights,
14 instream flow, and water quality objectives or standards.

15 (c) Division 13 (commencing with Section 21000) of the Public
16 Resources Code does not apply to actions by the board on a
17 temporary permit for a project that enhances the ability of a local
18 or state agency to capture high precipitation events for local storage
19 or recharge.

20 SEC. 2. Section 1348 of the Water Code is amended to read:

21 1348. For purposes of this article, a minor application shall
22 mean any either of the following:

23 (a) Any application which does not involve direct diversions in
24 excess of three cubic-feet per second or storage in excess of 200
25 acre-feet per year.

26 (b) An application by a groundwater sustainability agency or
27 local agency, as defined in Section 10721, for a diversion
28 previously authorized by a temporary permit under Article 2
29 (commencing with Section 1433) of Chapter 6.5 and that the
30 Division of Water Rights has determined, in its discretion, that
31 data available from a field investigation and operation under the
32 temporary permit is sufficient to issue a decision.

33 SEC. 3. The heading of Article 1 (commencing with Section
34 1425) is added to Chapter 6.5 of Part 2 of Division 2 of the Water
35 Code, to read:

36
37 Article 1. Temporary Urgency Permits

38
39 SEC. 4. Section 1425 of the Water Code is amended to read:

1 1425. (a) Any person, whether or not an applicant, permittee,
2 or licensee under provisions of this division other than this ~~chapter,~~
3 ~~article,~~ who has an urgent need to divert and use water may apply
4 for, and the board may issue, a conditional, temporary permit
5 without complying with other procedures or provisions of this
6 division, but subject to all requirements of this ~~chapter.~~ ~~article.~~

7 (b) Prior to issuing a permit pursuant to this ~~chapter,~~ ~~article,~~ the
8 board shall make all of the following findings:

9 (1) The applicant has an urgent need for the water proposed to
10 be diverted and used.

11 (2) The water may be diverted and used without injury to any
12 lawful user of water.

13 (3) The water may be diverted and used without unreasonable
14 effect upon fish, wildlife, or other instream beneficial uses.

15 (4) The proposed diversion and use are in the public interest,
16 including findings to support permit conditions imposed to ensure
17 that the water is diverted and used in the public interest, without
18 injury to any lawful user of water, and without unreasonable effect
19 upon fish, wildlife, and other instream beneficial uses.

20 (c) “Urgent need,” for the purposes of this ~~chapter,~~ ~~article,~~
21 means the existence of circumstances from which the board may
22 in its judgment conclude that the proposed temporary diversion
23 and use is necessary to further the constitutional policy that the
24 water resources of the state be put to beneficial use to the fullest
25 extent of which they are capable and that waste of water be
26 prevented; except that the board shall not find an applicant’s need
27 to be urgent if the board in its judgment concludes, if applicable,
28 that the applicant has not exercised due diligence either (1) in
29 making application for a permit pursuant to provisions of this
30 division other than this ~~chapter,~~ ~~article,~~ or (2) in pursuing that
31 application to permit.

32 (d) The board may delegate to any officer or employee of the
33 board all or any of its functions under this ~~chapter.~~ ~~article,~~ as
34 *provided in Section 7.*

35 *SEC. 5. Section 1430 of the Water Code is amended to read:*

36 1430. A temporary permit issued under this ~~chapter~~ ~~article~~
37 shall not result in the creation of a vested right, even of a temporary
38 nature, but shall be subject at all times to modification or revocation
39 in the discretion of the board. The authorization to divert and use
40 water under a temporary permit shall automatically expire 180

1 days after the authorization takes effect, unless an earlier date is
2 specified or the temporary permit is revoked. The 180-day period
3 does not include any time required for monitoring, reporting, or
4 mitigation before or after the authorization to divert or use water
5 under the temporary permit. If the temporary permit authorizes
6 diversion to storage, the 180-day period is a limitation on the
7 authorization to divert and not a limitation on the authorization
8 for beneficial use of water diverted to storage.

9 *SEC. 6. Article 2 (commencing with Section 1433) is added to*
10 *Chapter 6.5 of Part 2 of Division 2 of the Water Code, to read:*

11
12 *Article 2. Temporary Permits for Diversion to Underground*
13 *Storage*

14
15 *1433. Unless the context otherwise requires, the following*
16 *govern the construction of this article:*

17 *(a) "Beneficial use" includes, but is not limited to, the following:*

18 *(1) Prevention of significant and unreasonable seawater*
19 *intrusion.*

20 *(2) Prevention of significant and unreasonable degradation of*
21 *water quality, including the migration of contaminant plumes that*
22 *impair water supplies.*

23 *(3) Prevention of significant and unreasonable land subsidence*
24 *that substantially interferes with surface land uses.*

25 *(4) Maintenance or enhancement of groundwater dependent*
26 *ecosystems.*

27 *(5) Beneficial uses that require the extraction of stored water.*

28 *(b) "Local agency" has the same meaning as defined in Section*
29 *10721.*

30 *(c) "Groundwater sustainability agency" has the same meaning*
31 *as defined in Section 10721.*

32 *1433.1. (a) A groundwater sustainability agency or a local*
33 *agency, whether or not an applicant, permittee, or licensee under*
34 *provisions of this division other than this article, may apply for,*
35 *and the board may issue, a conditional temporary permit for*
36 *diversion of surface water to underground storage for beneficial*
37 *use that advances the sustainability goal of a groundwater basin*
38 *under Part 2.74 (commencing with Section 10720) of Division 6,*
39 *without complying with other procedures or provisions of this*
40 *division, subject to all requirements of this article.*

1 (b) Before issuing a permit pursuant to this article, the board
2 shall make all of the following findings based upon a
3 preponderance of the evidence:

4 (1) The proposed diversion is to underground storage for
5 beneficial use that advances the sustainability goal of a
6 groundwater basin.

7 (2) The water may be diverted and used without injury to any
8 lawful user of water. This finding may be satisfied by demonstrating
9 both of the following:

10 (A) The proposed diversion to underground storage will occur
11 only when flows in the source waterbody exceed the claims of all
12 known legal users who divert water downstream of the proposed
13 point of diversion.

14 (B) Storage and extraction from storage in the basin under the
15 proposed permit will be subject to accounting methods and
16 reporting requirements established by a groundwater sustainability
17 plan, interim plan, or alternative approved pursuant to Section
18 10733.6 that the board finds adequate to prevent injury to any
19 lawful user of water.

20 (3) The water may be diverted and used without unreasonable
21 effect upon fish, wildlife, or other instream beneficial uses.

22 (4) The proposed diversion and use are in the public interest,
23 including findings to support permit conditions imposed to ensure
24 that the water is diverted and used in the public interest, without
25 injury to any lawful user of water, and without unreasonable effect
26 upon fish, wildlife, and other instream beneficial uses.

27 (c) The board may delegate to any officer or employee of the
28 board all or any of its functions under this article, as provided in
29 Section 7.

30 1433.2. (a) The application for a temporary permit shall be
31 completed in accordance with Section 1260 and shall be
32 accompanied by any maps, drawings, and other data that may be
33 required by the board.

34 (b) An applicant shall pay an application fee and, if a permit is
35 issued, a permit fee, both in amounts calculated in accordance
36 with the provisions of Chapter 8 (commencing with Section 1525).

37 (c) In addition to subdivisions (a) and (b), an application shall
38 include all of the following:

39 (1) Evidence that the applicant has completed any environmental
40 review required by, or the project is exempt from, the California

1 *Environmental Quality Act (Division 13 (commencing with Section*
2 *21000) of the Public Resources Code).*

3 *(2) A certification that the applicant has consulted with the*
4 *Department of Fish and Wildlife at least 30 days before submission*
5 *of the application. The certification shall include a copy of any*
6 *conditions proposed by the Department of Fish and Wildlife.*

7 *(3) (A) Except as provided in subparagraph (B), a complete*
8 *water availability analysis that quantifies, under a range of*
9 *foreseeable hydrologic conditions, the amount of unappropriated*
10 *water available considering instream beneficial uses and all known*
11 *legal users who divert water hydrologically connected to the*
12 *proposed point of diversion.*

13 *(B) If the applicant proposes to divert water only when flows*
14 *in the source waterbody exceed an established or calculated flood*
15 *stage, a simplified water availability analysis.*

16 *(4) A proposed accounting method for storage and extraction*
17 *of water diverted under the permit that is certified to be consistent*
18 *with the groundwater sustainability plan or alternative approved*
19 *pursuant to Section 10733.6 by the groundwater sustainability*
20 *agency or local agency for the basin where the water is proposed*
21 *to be stored.*

22 *1433.3. (a) As soon as practicable after the receipt of an*
23 *application, the board shall issue and deliver to the applicant a*
24 *notice of the application that includes the information required*
25 *by Section 1301 and a list of persons who, in the judgment of the*
26 *board, could be adversely affected by the temporary diversion and*
27 *use. The board shall post the notice to its Internet Web site within*
28 *10 days of issuing the notice to the applicant.*

29 *(b) The applicant shall provide notice by registered or electronic*
30 *mail to each person on the list of interested persons provided by*
31 *the board and the list of interested persons maintained by any*
32 *groundwater sustainability agency or local agency for the basin*
33 *where the water is proposed to be stored. The applicant shall*
34 *provide proof of notice to the board.*

35 *(c) Any interested person may file an objection to the temporary*
36 *diversion and use with the board within 30 days of the mailing of*
37 *the notice by the applicant. A person filing an objection shall send*
38 *a copy to the applicant.*

1 (d) The board shall consider an objection, and may hold a
2 hearing on the objection after notice to all interested persons,
3 before acting upon an application for a permit.

4 1433.4. The board shall supervise diversion and use of water
5 under a permit issued under this article for the protection of all
6 lawful users of water and instream beneficial uses and for
7 compliance with permit conditions. The permit may require a
8 person who extracts water stored under the permit to comply with
9 regulatory and permitting requirements for groundwater extraction
10 set by the groundwater sustainability plan or alternative approved
11 pursuant to Section 10733.6 for the basin.

12 1433.5. A permit issued under this article shall not result in
13 the creation of a vested right, even of a temporary nature. The
14 permit is subject, at all times, to modification or revocation at the
15 discretion of the board. The authorization to divert and use water
16 under the permit shall automatically expire five years after the
17 authorization takes effect, unless an earlier date is specified or
18 the temporary permit is revoked, and shall be junior in priority to
19 any subsequent appropriation not subject to this chapter. The
20 five-year period does not include any time required for monitoring,
21 reporting, or mitigation before or after the authorization to divert
22 or use water under the permit. The five-year period is a limitation
23 on the authorization to divert and not a limitation on the
24 authorization for beneficial use of the water diverted to
25 underground storage.

26 1433.6. The board may renew a permit issued under this article
27 if the board, in its judgment, concludes that the applicant has
28 exercised due diligence in applying for a permit pursuant to
29 provisions of this division, other than this chapter, and in pursuing
30 that application once it is filed. The board shall process a request
31 for a renewal of a permit issued under this article pursuant to this
32 article, except that the board shall not require the permittee to file
33 duplicate maps, drawings, or other data if they were furnished
34 with the original application for the permit. Each renewal of a
35 permit issued under this article shall be valid for a period not to
36 exceed five years from the date of renewal.

37 SEC. 7. The heading of Chapter 6.6 (commencing with Section
38 1435) of Part 2 of Division 2 of the Water Code is amended to
39 read:

CHAPTER 6.6. TEMPORARY ~~URGENCY~~ CHANGES

SEC. 8. *The heading of Article 1 (commencing with Section 1435) is added to Chapter 6.6 of Part 2 of Division 2 of the Water Code, to read:*

Article 1. Temporary Urgency Changes

SEC. 9. *Section 1435 of the Water Code is amended to read:*

1435. (a) Any permittee or licensee who has an urgent need to change a point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for, and the board may issue, a conditional, temporary change order without complying with other procedures or provisions of this division, but subject to all requirements of this ~~chapter~~ *article*.

(b) Prior to issuing a change order pursuant to this ~~chapter~~ *article*, the board shall make all of the following findings:

(1) The permittee or licensee has an urgent need to make the proposed change.

(2) The proposed change may be made without injury to any other lawful user of water.

(3) The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

(4) The proposed change is in the public interest, including findings to support change order conditions imposed to ensure that the change is in the public interest, and may be made without injury to any other lawful user of the water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

(c) "Urgent need," for the purposes of this ~~chapter~~ *article*, means the existence of circumstances from which the board may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented; except that the board shall not find a petitioner's need to be urgent if the board in its judgment concludes, if applicable, that the petitioner has not exercised due diligence either (1) in petitioning for a change pursuant to provisions of this division other than this ~~chapter~~ *article*, or (2) in pursuing that petition for change.

(d) The board may delegate to any officer or employee of the board all or any of its functions under this ~~chapter~~ *article*, as provided in Section 7.

SEC. 10. Section 1440 of the Water Code is amended to read:

1440. A temporary change order issued under this ~~chapter~~ *article* shall not result in the creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the board. The authorization to divert and use water under a temporary change order shall automatically expire 180 days after the authorization takes effect, unless an earlier date is specified or the temporary change order is revoked. The 180-day period does not include any time required for monitoring, reporting, or mitigation before or after the authorization to divert or use water under the temporary change order. If the temporary change order authorizes diversion to storage, the 180-day period is a limitation on the authorization to divert and not a limitation on the authorization for beneficial use of water diverted to storage.

SEC. 11. Section 1441 of the Water Code is amended to read:

1441. A temporary change order issued under this ~~chapter~~ *article* may be renewed by the board. Requests for renewal shall be processed in the manner provided by this chapter except that the permittee or licensee shall not be required to file duplicate maps, drawings, or other data if they were furnished with the original petition. Each such renewal shall be valid for a period not to exceed 180 days from the date of renewal.

SEC. 12. Section 1442 of the Water Code is amended to read:

1442. This ~~chapter~~ *article* shall not apply to any permittee or licensee petitioning for a temporary change pursuant to Chapter 10.5 (commencing with Section 1725).

SEC. 13. Article 2 (commencing with Section 1443) is added to Chapter 6.6 of Part 2 of Division 2 of the Water Code, to read:

Article 2. Temporary Changes for Diversion to Underground Storage

1443. Unless the context otherwise requires, the following govern the construction of this article:

(a) "Beneficial use" includes, but is not limited to, the following:

1 (1) Prevention of significant and unreasonable seawater
2 intrusion.

3 (2) Prevention of significant and unreasonable degradation of
4 water quality, including the migration of contaminant plumes that
5 impair water supplies.

6 (3) Prevention of significant and unreasonable land subsidence
7 that substantially interferes with surface land uses.

8 (4) Maintenance or enhancement of groundwater dependent
9 ecosystems.

10 (5) Beneficial uses that require the extraction of stored water.

11 (b) “Local agency” has the same meaning as defined in Section
12 10721.

13 (c) “Groundwater sustainability agency” has the same meaning
14 as defined in Section 10721.

15 1443.1. (a) A groundwater sustainability agency or a local
16 agency that is a permittee or a licensee under provisions of this
17 division other than this article, may petition for, and the board
18 may issue, a conditional temporary change order that authorizes
19 the diversion of surface water to underground storage for
20 beneficial use that advances the sustainability goal of a
21 groundwater basin under Part 2.74 (commencing with Section
22 10720) of Division 6, without complying with other procedures or
23 provisions of this division, subject to all requirements of this
24 article.

25 (b) Before issuing a change order pursuant to this article, the
26 board shall make all of the following findings based upon a
27 preponderance of the evidence:

28 (1) The proposed change is for diversion to underground storage
29 for beneficial use that advances the sustainability goal of a
30 groundwater basin.

31 (2) The proposed change may be made without injury to any
32 other lawful user of water. This finding may be satisfied by
33 demonstrating both of the following:

34 (A) The proposed diversion to underground storage will occur
35 only when flows in the source waterbody exceed the claims of all
36 known legal users who divert water downstream of the proposed
37 point of diversion.

38 (B) Storage and extraction from storage in the basin under the
39 proposed change will be subject to accounting methods and
40 reporting requirements established by a groundwater sustainability

1 plan, interim plan, or alternative approved pursuant to Section
2 10733.6 that the board finds adequate to prevent injury to any
3 lawful user of water.

4 (3) The proposed change may be made without unreasonable
5 effect upon fish, wildlife, or other instream beneficial uses.

6 (4) The proposed change is in the public interest, including
7 findings to support change order conditions imposed to ensure
8 that the water is diverted and used in the public interest, without
9 injury to any lawful user of water, and without unreasonable effect
10 upon fish, wildlife, and other instream beneficial uses.

11 (c) The board may delegate to any officer or employee of the
12 board all or any of its functions under this article, as provided in
13 Section 7.

14 1443.2. (a) The petition for a temporary change order shall
15 be completed in accordance with the rules of the board that specify
16 the information and maps to be included in a petition for change.

17 (b) A petitioner for a change order shall pay a fee calculated
18 in accordance with the provisions of Chapter 8 (commencing with
19 Section 1525).

20 (c) In addition to subdivisions (a) and (b), a petition shall
21 include all of the following:

22 (1) Evidence that the petitioner has completed any
23 environmental review required by, or the project is exempt from,
24 the California Environmental Quality Act (Division 13
25 (commencing with Section 21000) of the Public Resources Code).

26 (2) A certification that the petitioner has consulted with the
27 Department of Fish and Wildlife at least 30 days before submission
28 of the petition. The certification shall include a copy of any
29 conditions proposed by the Department of Fish and Wildlife.

30 (3) (A) Except as provided in subparagraph (B), a complete
31 water availability analysis that quantifies, under a range of
32 foreseeable hydrologic conditions, the amount of unappropriated
33 water available considering instream beneficial uses and all known
34 legal users who divert water hydrologically connected to the
35 proposed point of diversion.

36 (B) If the petitioner proposes to divert water only when flows
37 in the source waterbody exceed an established or calculated flood
38 stage, a simplified water availability analysis.

39 (4) A proposed accounting method for storage and extraction
40 of water diverted under the change order that is certified to be

1 consistent with the groundwater sustainability plan or alternative
2 approved pursuant to Section 10733.6 by the groundwater
3 sustainability agency or local agency for the basin where the water
4 is proposed to be stored.

5 1443.3. (a) As soon as practicable after the receipt of a petition
6 for a temporary change order, the board shall issue and deliver
7 to the petitioner a notice of the petition and a list of persons who,
8 in the judgment of the board, could be adversely affected by the
9 temporary change. The board shall post the notice to its Internet
10 Web site within 10 days of issuing the notice to the petitioner.

11 (b) The petitioner shall provide notice by registered or electronic
12 mail to each person on the list of interested persons provided by
13 the board and the list of interested persons maintained by any
14 groundwater sustainability agency or local agency for the basin
15 where the water is proposed to be stored. The petitioner shall
16 provide proof of notice to the board.

17 (c) Any interested person may file an objection to the temporary
18 diversion and use with the board within 30 days of the mailing of
19 the notice by the petitioner. A person filing an objection shall send
20 a copy to the applicant.

21 (d) The board shall consider an objection, and may hold a
22 hearing on the objection after notice to all interested persons,
23 before acting upon a petition for a temporary change order.

24 1443.4. The board shall supervise diversion and use of water
25 under a change order issued under this article for the protection
26 of all lawful users of water and instream beneficial uses and for
27 compliance with change order conditions. The change order may
28 require a person who extracts water stored under the change order
29 to comply with regulatory and permitting requirements for
30 groundwater extraction set by the groundwater sustainability plan
31 or alternative approved pursuant to Section 10733.6 for the basin.

32 1443.5. A change order issued under this article shall not result
33 in the creation of a vested right, even of a temporary nature. The
34 change order is subject, at all times, to modification or revocation
35 at the discretion of the board. The authorization to divert and use
36 water under the change order shall automatically expire five years
37 after the authorization takes effect, unless an earlier date is
38 specified or the temporary change order is revoked, and shall be
39 junior in priority to any subsequent appropriation not subject to
40 this chapter. The five-year period does not include any time

1 required for monitoring, reporting, or mitigation before or after
2 the authorization to divert or use water under the change order.
3 The five-year period is a limitation on the authorization to divert
4 and not a limitation on the authorization for beneficial use of the
5 water diverted to underground storage.

6 1443.6. The board may renew a change order issued under
7 this article if the board, in its judgment, concludes that the
8 petitioner has exercised due diligence in applying for a change
9 pursuant to provisions of this division, other than this chapter,
10 and in pursuing that petition once it is filed. The board shall
11 process a request for a renewal of a change order issued under
12 this article pursuant to this article. The board may request the
13 petitioner to file maps, drawings, or other data furnished with the
14 original petition for the change order. Each renewal of a change
15 order issued under this article shall be valid for a period not to
16 exceed five years from the date of renewal.

17 1443.7. This article does not apply to any permittee or licensee
18 petitioning for a temporary change pursuant to Chapter 10.5
19 (commencing with Section 1725).

20 SEC. 14. Section 1704.4 of the Water Code is amended to read:

21 1704.4. For purposes of this chapter, a minor petition for
22 change ~~shall mean any~~ means either of the following:

23 (a) Any petition which does not involve direct diversions in
24 excess of three cubic-feet per second or storage in excess of 200
25 acre-feet per year.

26 (b) A petition for change by a groundwater sustainability agency
27 or local agency, as defined in Section 10721, for a change
28 previously authorized by a temporary change under Article 2
29 (commencing with Section 1443) of Chapter 6.6 and that the
30 Division of Water Rights has determined, in its discretion, that
31 data available from a field investigation and operation under the
32 temporary change is sufficient to issue a decision.

AMENDED IN SENATE JUNE 18, 2018

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 17, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2697

Introduced by Assembly Member Gallagher

February 15, 2018

An act to add Section 1349.5 to the Fish and Game Code, relating to wildlife habitat.

LEGISLATIVE COUNSEL’S DIGEST

AB 2697, as amended, Gallagher. Wildlife, bird, and waterfowl habitat: idled agricultural lands.

Existing law establishes the Wildlife Conservation Board within the Department of Fish and Wildlife and requires the board to investigate, study, and determine what areas within the state are most essential and suitable for wildlife production and preservation, and will provide suitable recreation. Existing law also requires the board to ascertain and determine what lands within the state are suitable for game propagation, game refuges, bird refuges, waterfowl refuges, game farms, fish hatcheries, game management areas, and what streams and lakes are suitable for, or can be made suitable for, fishing and hunting. Existing law also authorizes the board to administer various habitat conservation programs.

This bill would require the board to establish a program, which may include direct payments or other incentives, to encourage landowners to voluntarily cultivate or retain cover crops or other upland vegetation on idled lands to provide waterfowl, upland game bird, and other wildlife

habitat cover for purposes, including, but not limited to, encouraging the use of idle agricultural lands for wildlife habitat. The bill would also authorize the department to provide incentives pursuant to the program for the creation or enhancement of waterfowl brood habitat, and to develop guidelines and criteria for the program as it deems appropriate. The bill would require the board to consult with the Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Natural Resources Conservation Service, and nonprofit waterfowl and upland gamebird organizations before implementing those provisions, to determine the optimal ways of increasing and enhancing wildlife habitat on idled lands.

The bill would provide that its provisions shall be implemented only if the Water Supply and Water Quality Act of 2018 is approved by the voters at the November 6, 2018, general election or a sufficient amount of federal grants or other funds are secured, as determined by the board, for the purposes of the bill.

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

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

- 1 SECTION 1. Section 1349.5 is added to the Fish and Game
- 2 Code, to read:
- 3 1349.5. (a) The board shall establish a program, which may
- 4 include direct payments or other incentives, to encourage
- 5 landowners to voluntarily cultivate or retain cover crops or other
- 6 upland vegetation on idled lands to provide waterfowl, upland
- 7 game bird, and other wildlife habitat cover, including, but not
- 8 limited to, for the purposes described in Section 1018 of the Water
- 9 Code. The board may also provide incentives pursuant to the
- 10 program for the creation or enhancement of waterfowl brood
- 11 habitat.
- 12 (b) The board may develop guidelines and criteria for the
- 13 program established under subdivision (a) as it deems appropriate
- 14 but shall ensure that it is flexible enough to meet landowner needs.
- 15 The program shall do all of the following:
- 16 (1) Prohibit a landowner who participates in the program and
- 17 has committed to leaving the established upland cover crops or
- 18 other upland vegetation in place after April 1 from engaging in
- 19 practices such as disking, spraying of herbicides, mowing, chipping,

1 or rolling any vegetation on those idled lands until after July 1, or
2 as late as possible each year, to address waterfowl nesting, upland
3 gamebird habitat, and other wildlife needs.

4 (2) Utilize licensed professionals such as biologists or other
5 wildlife experts to monitor nesting bird activity and salvage eggs
6 before permitting the removal of any upland cover crops or other
7 upland vegetation on any lands covered under the incentive
8 program.

9 (3) Be consistent with waterfowl habitat breeding goals and
10 objectives of the Central Valley Joint Venture Implementation
11 Plan as it may be amended.

12 (4) Allow for one year or multiyear contacts with landowners.

13 (5) Allow for the rotation of fallowed fields to different areas
14 of a landowner's property on an annual basis.

15 (6) Prohibit, in connection with the approval of a transfer, a
16 landowner who participates in the program from diverting or using
17 any water under any basis of right to irrigate land idled in order
18 to provide water for transfer, unless the transfer is approved by
19 the State Water Resources Control Board pursuant to Part 2
20 (commencing with Section 1200) of Division 2 of the Water Code,
21 or by the Department of Water Resources pursuant to Article 4
22 (commencing with Section 1810) of Chapter 11 of Part 2 of
23 Division 2 of the Water Code, and the irrigation of the idled land
24 is expressly authorized under that approval.

25 (7) Allow for activities undertaken or requested by mosquito
26 control agencies to address mosquito production.

27 (c) The program shall be supported with state or federal grants,
28 state bond moneys, and private grants and donations. Funds shall
29 be deposited in the California Waterfowl Habitat Preservation
30 Account established pursuant to Section 3467. Funds may also be
31 used as a state match for related federal conservation programs
32 that provide waterfowl and upland gamebird breeding habitat
33 benefits.

34 (d) The board may utilize the assistance of the department in
35 implementing the program, including, but not limited to,
36 monitoring and compliance activities. Nonprofit conservation
37 organizations may also assist in implementing the program to the
38 extent that the board or the department deems appropriate.

39 (e) The program may also include agricultural lands not subject
40 to water transfers or lands fallowed for any other legal purpose.

1 (f) The board shall consult with the department, the United
2 States Fish and Wildlife Service, the Natural Resources
3 Conservation Service, and nonprofit waterfowl and upland
4 gamebird organizations before implementing this section to
5 determine the optimal ways to increase and enhance waterfowl
6 and upland gamebird breeding habitat on idled lands.

7 (g) Landowners who take voluntary action to cultivate or retain
8 irrigated or nonirrigated cover crops, natural vegetation, or other
9 wildlife habitat on lands fallowed pursuant to the goals of the
10 Sustainable Groundwater Management Act (Part 2.74 (commencing
11 with Section 10720) of Division 6 of the Water Code) shall also
12 be eligible to participate in the program described in subdivision
13 (a).

14 (h) The program is established for waterfowl and other gamebird
15 breeding purposes and shall not be used to provide waterfowl
16 wintering habitat, including managed wetland habitat as defined
17 in paragraph (1) of subdivision (a) of Section 1506.

18 (i) *This section shall be implemented only if either of the*
19 *following occur:*

20 (1) *The Water Supply and Water Quality Act of 2018 (Division*
21 *38 (commencing with Section 86000) of the Water Code) is*
22 *approved by the voters at the November 6, 2018, statewide general*
23 *election.*

24 (2) *A sufficient amount of federal grants or other funds are*
25 *secured, as determined by the board, for the purposes of this*
26 *section.*

AMENDED IN SENATE JUNE 18, 2018

AMENDED IN ASSEMBLY APRIL 3, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 3206

Introduced by Assembly Member Friedman

February 16, 2018

An act to add Section 25401.8 to the Public Resources Code, and to amend Section 10608.34 of the Water Code, relating to water conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 3206, as amended, Friedman. Water conservation: water meters: accuracy and performance standards.

(1) Existing law requires the State Energy Resources Conservation and Development Commission to establish design and construction standards and energy and water conservation design standards that increase efficiency in the use of energy and water for new residential and new nonresidential buildings to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy. Existing law requires the commission to establish minimum levels of operating efficiency to promote the use of energy and water efficient appliances, including landscape irrigation equipment.

This bill would require the commission, on or before January 1, 2020, *to the extent that funding is available*, to adopt regulations setting standards for the accuracy of water ~~meters purchased meters~~, *as described, that*, on ~~and~~ or after the effective date of those ~~regulations, including water meters installed pursuant to the Water Measurement Law, described in~~ (2): *regulations, are installed by a water purveyor*

or manufactured and sold or offered for sale in the state. The bill would allow a water purveyor to install a include an exception for a water meter possessed by that water purveyor before that, as of the effective date of the regulations for a time period deemed appropriate by the commission. regulations, a water purveyor possesses, or has entered into a contract to purchase, and has not yet installed. The bill would allow a water purveyor to maintain water meters that are installed as of the effective date of the regulations, or pursuant to that exception, until the end of their useful service, as determined by the water purveyor.

(2) Existing law requires the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020, and requires the state to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. Existing law requires the Department of Water Resources to adopt and update rules for urban retail water suppliers to conduct standardized water loss audits and requires suppliers to submit those water loss audits to the department. Existing law requires the State Water Resources Control Board, no later than July 1, 2020, to adopt rules requiring urban retail water suppliers to meet performance standards for the volume of water losses.

The Water Measurement Law requires every water purveyor to require, as a condition of new water service, the installation of a water meter to measure water service. The law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters.

This bill would require the State Water Resources Control Board, in adopting the rules for urban retail water supplier performance standards, to also adopt protocols to be used by an urban water supplier for the regular sampling and testing of regulations to require each urban water supplier to sample and test its customers' customer service meters to establish produce a statistically sound estimate of the accuracy of the water meters serviced by the urban water supplier. supplier's meter fleet. The bill would also make various nonsubstantive changes.

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

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

SECTION 1. Section 25401.8 is added to the Public Resources Code, to read:

25401.8. (a) ~~(1) On or before January 1, 2020, 2022, to the extent that funding is available, the commission shall adopt regulations setting standards for the accuracy of water meters purchased on and described in Article 3.5 (commencing with Section 525) of Chapter 8 of Division 1 of the Water Code that, on or after the effective date of those regulations, including water meters described in Article 3.5 (commencing with Section 525) of Chapter 8 of Division 1 of the Water Code, are installed by a water purveyor or manufactured and sold or offered for sale in the state. The regulations shall allow a water purveyor to install~~ *do both of the following:*

(1) Install a water meter possessed by that water purveyor before that, as of the effective date of the regulations for a time period following the effective date of the regulations, as deemed appropriate by the commission; regulations, the water purveyor possesses, or has entered into a contract to purchase, and has not yet installed.

(2) Maintain all water meters installed as of the effective date of the regulations or pursuant to paragraph (1) until the end of their useful service, as determined by the water purveyor.

(b) In adopting regulations pursuant to subdivision (a), the commission may consider the fifth edition of the American Water Works Association's Water Meters—Selection, Installation, Testing and Maintenance, Manual M6.

~~(2) For purposes of this section, "water meter" has the same meaning as in Section 516 of the Water Code.~~

~~(b)~~

(c) Paragraph (3) of subdivision (b) of, and paragraph (1) of subdivision (c) of, Section 25402 shall not apply to the regulations adopted under this section.

SEC. 2. Section 10608.34 of the Water Code is amended to read:

10608.34. (a) (1) On or before January 1, 2017, the department shall adopt rules for all of the following:

(A) The conduct of standardized water loss audits by urban retail water suppliers in accordance with the method adopted by

1 the American Water Works Association in the third edition of
2 Water Audits and Loss Control Programs, Manual M36 and in the
3 Free Water Audit Software, version 5.0.

4 (B) The process for validating a water loss audit report prior to
5 submitting the report to the department. For the purposes of this
6 section, “validating” is a process whereby an urban retail water
7 supplier uses a technical expert to confirm the basis of all data
8 entries in the urban retail water supplier’s water loss audit report
9 and to appropriately characterize the quality of the reported data.

10 The validation process shall follow the principles and terminology
11 laid out by the American Water Works Association in the third
12 edition of Water Audits and Loss Control Programs, Manual M36
13 and in the Free Water Audit Software, version 5.0. A validated
14 water loss audit report shall include the name and technical
15 qualifications of the person engaged for validation.

16 (C) The technical qualifications required of a person to engage
17 in validation, as described in subparagraph (B).

18 (D) The certification requirements for a person selected by an
19 urban retail water supplier to provide validation of its own water
20 loss audit report.

21 (E) The method of submitting a water loss audit report to the
22 department.

23 (2) The department shall update rules adopted pursuant to
24 paragraph (1) no later than six months after the release of
25 subsequent editions of the American Water Works Association’s
26 Water Audits and Loss Control Programs, Manual M36. Except
27 as provided by the department, until the department adopts updated
28 rules pursuant to this paragraph, an urban retail water supplier may
29 rely upon a subsequent edition of the American Water Works
30 Association’s Water Audits and Loss Control Programs, Manual
31 M36 or the Free Water Audit Software.

32 (b) On or before October 1 of each year, each urban retail water
33 supplier shall submit a completed and validated water loss audit
34 report for the previous calendar year or the previous fiscal year as
35 prescribed by the department pursuant to subdivision (a).

36 (c) Each water loss audit report submitted to the department
37 shall be accompanied by information, in a form specified by the
38 department, identifying steps taken in the preceding year to increase
39 the validity of data entered into the final audit, reduce the volume
40 of apparent losses, and reduce the volume of real losses.

(d) At least one of the following employees of an urban retail water supplier shall attest to each water loss audit report submitted to the department:

- (1) The chief financial officer.
- (2) The chief engineer.
- (3) The general manager.

(e) The department shall deem incomplete and return to the urban retail water supplier any final water loss audit report found by the department to be incomplete, not validated, unattested, or incongruent with known characteristics of water system operations. A water supplier shall resubmit a completed water loss audit report within 90 days of an audit being returned by the department.

(f) The department shall post all validated water loss audit reports on its Internet Web site in a manner that allows for comparisons across water suppliers. The department shall make the validated water loss audit reports available for public viewing in a timely manner after their receipt.

(g) Using available funds, the department shall provide technical assistance to guide urban retail water suppliers' water loss detection programs, including, but not limited to, metering techniques, pressure management techniques, condition-based assessment techniques for transmission and distribution pipelines, and utilization of portable and permanent water loss detection devices.

(h) (1) No earlier than January 1, 2019, and no later than July 1, 2020, the board shall adopt rules requiring urban retail water suppliers to meet performance standards for the volume of water losses. In adopting these rules, the board shall employ full life-cycle cost accounting to evaluate the costs of meeting the performance standards. The board may consider establishing a minimum allowable water loss threshold that, if reached and maintained by an urban water supplier, would exempt the urban water supplier from further water loss reduction requirements.

(2) In adopting the rules described in paragraph (1), the board shall also adopt ~~protocols to be used by each urban water supplier for the regular regulations requiring the sampling and testing by each urban water supplier of its customers' service meters to establish customer service meters that, when followed, will produce a statistically sound estimate of the accuracy of the water meters serviced by the urban water supplier.~~ *urban water supplier's meter*

1 *fleet. In adopting regulations pursuant to this paragraph, the board*
2 *shall consider both of the following:*

3 *(A) The results of a survey of urban water suppliers, to be*
4 *conducted by the board, on the methodologies they use to sample*
5 *and test customer service meters.*

6 *(B) Industry standards of practice and manuals from the*
7 *American Water Works Association.*

AMENDED IN ASSEMBLY JUNE 12, 2018

AMENDED IN SENATE MARCH 15, 2018

AMENDED IN SENATE FEBRUARY 26, 2018

SENATE BILL

No. 919

Introduced by Senator Dodd

January 22, 2018

An act to add Section 144 to the Water Code, relating to water resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 919, as amended, Dodd. Water resources: stream gages.

Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the state board grants permits and licenses to appropriate water. Existing law, the Open and Transparent Water Data Act, requires the Department of Water Resources, the board, and the Department of Fish and Wildlife to coordinate and integrate existing water and ecological data from local, state, and federal agencies.

This bill would require the Department of Water Resources, upon appropriation by the Legislature, to develop a plan to deploy a network of stream gages that includes a determination of funding needs and opportunities for *modernizing and* reactivating existing ~~gages~~ *gages and delpoying new gages, as specified*. The bill would require the department, in consultation with the board, the Department of Fish and Wildlife, *the Department of Conservation*, the Central Valley Flood Protection Board, interested stakeholders, and, to the extent they wish to consult, local agencies, to develop the plan to address significant gaps in information necessary for water ~~management~~ *management and*

the conservation of freshwater species. The bill would require the department to give priority in the plan to placing or *modernizing and* reactivating stream gages where lack of data contributes to conflicts in water management actions, as specified, and to consider specified criteria in developing the plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

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

3 (a) ~~Fourteen~~ *Less than 14* percent of the state's significant stream
4 segments are well gaged.

5 (b) California's current stream gage network is poorly funded
6 and not well organized, and data on existing gages pertaining to
7 funding, location, and operating condition is difficult to find.

8 (c) The stream gage network fails to report key variables such
9 as flow, temperature, and drainage.

10 (d) For a stream gage to be effective in helping inform water
11 management during climate extremes and highly variable flows,
12 it should record quality data, report key variables such as flow and
13 temperature, and make its data accessible to the public promptly.

14 (e) The largest individual sponsor of stream gages in California
15 is the United States Geological Survey (USGS), which works
16 largely in partnership with a variety of state and federal agencies
17 that provide funding to support gages and at least 57 percent of
18 USGS-funded gages are also funded by a local agency.

19 (f) The data about which specific agencies are already funding
20 particular stream gages is available for only 20 percent of active
21 gages in California, and to better understand the gage landscape
22 in the state, it is critical to know which agencies are funding
23 particular gages.

24 SEC. 2. Section 144 is added to the Water Code, to read:

25 144. (a) Upon appropriation by the Legislature, the department
26 shall develop a plan to deploy a network of stream gages that
27 includes a determination of funding needs and opportunities for
28 *modernizing and* reactivating existing ~~gages~~. *gages and deploying*
29 *new gages in priority locations across hydrologic regions in the*
30 *state, including reference sites.*

(b) The department, in consultation with the board, the Department of Fish and Wildlife, *the Department of Conservation*, the Central Valley Flood Protection Board, interested stakeholders, and, to the extent they wish to consult, local agencies, shall develop the plan to address significant gaps in information necessary for water—~~management~~. *management and the conservation of freshwater species.*

(c) The department shall give priority in the plan to placing or *modernizing and* reactivating stream gages where lack of data contributes to conflicts in water management actions, including, but not limited to, actions related to the following:

(1) Water supply management.

(2) Flood management.

(3) Water quality management.

(4) Ecosystem management.

(d) Other criteria to be considered by the department in developing the plan include all of the following:

(1) Opportunities for local agencies to enter cost-share arrangements to install or maintain the stream gage.

(2) Ease of integrating the stream gage into the existing network.

(3) Availability of historic gage data for specific locations.

(4) *Availability of temperature data for specific locations.*
(5) *Degree of water quality and flow impacts related to cannabis cultivation.*

(6) *Integration with the Open and Transparent Water Data Act (Part 4.9 (commencing with Section 12400) of Division 6).*