



**San Luis & Delta-Mendota Water Authority
Monday, April 3, 2023 10:00 a.m.**

**Notice of Water Resources Committee Regular Meeting and Joint Water
Resources Committee Regular Meeting-Special Board Workshop**

**SLDMWA Boardroom
842 6th Street, Los Banos**

Public Participation Information

Join Zoom Meeting

<https://us02web.zoom.us/j/87288538791?pwd=SWNrakxmamY2WIRGK3owcjFMRVJyUT09>

Meeting ID: 872 8853 8791

Passcode: 823442

One tap mobile

+16699006833,,87288538791#,,,,*823442# US (San Jose)

+16694449171,,87288538791#,,,,*823442# US

Dial by your location

+1 669 900 6833 US (San Jose)

+1 669 444 9171 US

Meeting ID: 872 8853 8791

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NOTE: Any member of the public may address the Water Resources Committee/Board concerning any item on the agenda before or during consideration of that item.

Because the notice provides for a regular meeting of the Water Resources Committee ("WRC") and a joint regular WRC Meeting/Special Board workshop, Board Directors/Alternates may discuss items listed on the agenda; however, only WRC Members/Alternates may correct or add to the agenda or vote on action items.

NOTE FURTHER: Meeting materials have been made available to the public on the San Luis & Delta-Mendota Water Authority's website, <https://www.sldmwa.org>, and at the Los Banos Administrative Office, 842 6th Street, Los Banos, CA 93635.

Agenda

1. Call to Order/Roll Call
2. Water Resources Committee to Consider Additions and Corrections to the Agenda for the Water Resources Committee Meeting only, as Authorized by Government Code Section 54950 *et seq.*
3. Opportunity for Public Comment – Any member of the public may address the Water Resources Committee/Board concerning any matter not on the agenda, but within the Committee's or Board's jurisdiction. Public comment is limited to no more than three minutes per person. For good cause, the Chair of the Water Resources Committee may waive this limitation.

ACTION ITEMS

4. **Water Resources Committee to Consider Approval of the March 6, 2023 Meeting Minutes**
5. **Water Resources Committee to Consider Recommendation to Board of Directors to Adopt Staff Recommendation for Positions on Legislation, Petersen**
 - A. AB 422 (Alanis), Natural Resources Agency: statewide water storage: tracking
 - B. AB 460 (Bauer-Kahan), State Water Resources Control Board: interim relief.
 - C. AB 557 (Hart), Open meetings: local agencies: teleconferences.
 - D. AB 676 (Bennett), Water: general state policy.
 - E. AB 735 (Berman), Workforce development: utility careers.
 - F. AB 1337 (Wicks), State Water Resources Control Board: water shortage enforcement
 - G. SB 366 (Caballero), The California Water Plan: long-term supply targets.
 - H. SB 389 (Allen), State Water Resources Control Board: determination of water right

REPORT ITEMS

6. Executive Director's Report, Barajas
(May include reports on activities within the Water Resources Committee's jurisdiction related to 1) CVP/SWP water operations; 2) California storage projects; 3) regulation of the CVP/SWP; 4) existing or possible new State and Federal policies; 5) Water Authority activities; 6) COVID-19 response)
7. Update on Water Policy/Resources Activities, Petersen
(May include reports on activities related to 1) Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project, including environmental compliance; 2) State Water Resources Control Board action; 3) San Joaquin River Restoration Program; 4) Delta conveyance; 5) Reclamation action; 6) Delta Stewardship Council action; 7) San Joaquin Valley Water Blueprint and San Joaquin Valley Water Collaborative Action Plan)
8. Update on Water Operations and Forecasts, Boardman
9. Committee Member Reports
10. Closed Session

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to paragraph (4) of Subdivision (d) of Government Code Section 54956.9 – 1 potential case

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of Subdivision (d) of Government Code Section 54956.9 – 2 potential cases

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Existing Litigation Pursuant to paragraph (1) of Subdivision (d) of Section 54956.9

- A. Natural Resources Defense Council, et al. v. Haaland, et al., U.S. District Court, E.D. Cal., Case No. 1:05-cv-01207; 9th Cir., Case No. 21-15163 (2005 DMC Contract Renewals)
- B. Pacific Coast Federation of Fishermen's Associations, et al. v. Conant, et al., U.S. District Court, E.D. Cal., Case No. 2:11-cv-02980 (PCFFA v. Glaser or GBP Citizen Suit)
- C. City of Fresno, et al. v. United States, U.S. Court of Appeals for the Federal Cir., Case No. 22-1994; U.S. Court of Federal Claims, Case No. 1:16-cv-01276 (2014 Friant Div. Operations)
- D. Monterey Coastkeeper, et al. v. Central Valley Regional Water Quality Control Board, et al., Sacramento Co. Superior Court, Case No. 34-2018-80002853; Environmental Law Foundation v. State Water Resources Control Board, Sacramento Co. Superior Court, Case No. 34-2018-80002851; Protectores del Agua Subterranea v. State Water Resources Control Board, Sacramento Co. Superior Court, Case No. 34-2018-80002852; Third District Court of Appeal, Case No. C093513 (Waste Discharge Requirement Cases)
- E. North Coast Rivers Alliance v. Delta Stewardship Council, Sacramento Co. Superior Court, Case No. 34-2018-80002898, Third District Court of Appeal Case No. C097948 (Delta Plan Amendment Cases)
- F. North Coast Rivers Alliance, et al. v. San Luis & Delta-Mendota Water Authority, et al., Merced Co. Superior Court, Case No. 19CV-04989; Fifth District Court of Appeal, Case No. F085972 (GBP Long-Term Storm Water Management Plan)
- G. Pacific Coast Federation of Fishermen's Associations, et al. v. Raimondo, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00431 (ROC on LTO BiOps)

- H. California Natural Resources Agency, et al. v. Raimondo, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00426 (ROC on LTO BiOps)
 - I. CDWR Water Operation Cases, Sacramento Co. Superior Court, Case No. JCCP 5117 (formerly Tehama-Colusa Canal Authority, et al. v. California Department of Water Resources, et al., Fresno Co. Superior Court, Case No. 20CECG01303) (SWP EIR Challenge)
 - J. AquAlliance, et al. v. U.S. Bureau of Reclamation, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00878 (Long-Term Water Transfers EIS/EIR)
 - K. AquAlliance et al. v. San Luis & Delta-Mendota Water Authority, Merced Co. Superior Court, Case No. 21CV-03487 (Long-Term Water Transfers EIS/EIR Addendum)
 - L. California Sportfishing Protection Alliance, et al. v. State Water Resources Control Board, et al., Sacramento Co. Superior Court, Case No. 34-2021-80003761 (2021 TUCP Order)
 - M. California Sportfishing Protection Alliance, et al. v. State Water Resources Control Board, et al., Sacramento Co. Superior Court, Case No. 34-2021-80003763 (2021 Temp. Mgmt. Plan)
- 11. Return to Open Session
 - 12. Report from Closed Session, if any, Required by Government Code Section 54957.1
 - 13. Reports Pursuant to Government Code Section 54954.2(a)(3)
 - 14. ADJOURNMENT

Persons with a disability may request disability-related modification or accommodation by contacting Cheri Worthy or Sandi Ginda at the San Luis & Delta-Mendota Water Authority Office, 842 6th Street, P.O. Box 2157, Los Banos, California, via telephone at (209) 826-9696, or via email at cheri.worthy@sldmwa.org. Requests should be made as far in advance as possible before the meeting date, preferably 3 days in advance of regular meetings or 1 day in advance of special meetings/workshops.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Section 54950 et seq. and has not been prepared with a view to informing an investment decision in any of the Authority's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of the Authority's bonds, notes or other obligations and investors and potential investors should rely only on information filed by the Authority on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures, maintained on the World Wide Web at <https://emma.msrb.org/>.

**SAN LUIS & DELTA-MENDOTA WATER AUTHORITY
WATER RESOURCES COMMITTEE REGULAR MEETING AND JOINT
WATER RESOURCES COMMITTEE REGULAR MEETING - SPECIAL
BOARD WORKSHOP MINUTES**

MARCH 6, 2023

The San Luis & Delta-Mendota Water Authority Water Resources Committee Regular Meeting and Joint Water Resources Committee Regular Meeting and Special Board Workshop convened at approximately 10:00 a.m. at 842 6th Street in Los Banos, California, with Chair William Bourdeau presiding.

Water Resources Committee Members Present

Ex-Officio

Cannon Michael
William Bourdeau

Division 1

Anthea Hansen, Alternate

Division 2

Absent

Division 3

Chris White, Member

Division 4

Vincent Gin, Member - Steve Wittry, Alternate

Division 5

Absent

Board of Directors Present

Division 1

Anthea Hansen, Director

Division 2

Justin Diener, Alternate
William Bourdeau, Director
Ara Azhderian, Alternate

Division 3

Chris White, Alternate
Jarrett Martin, Director
Cannon Michael, Director

Division 4

Steve Wittry, Director
Joyce Machado, Alternate

Division 5

Absent

Authority Representatives Present

Federico Barajas, Executive Director
Pablo Arroyave, Chief Operating Officer
Rebecca Akroyd, General Counsel
Rebecca Harms, Deputy General Counsel
Ray Tarka, Director of Finance
Scott Petersen, Water Policy Director
Cindy Meyer, Special Programs Manager (via ZOOM)
Stewart Davis, IT Officer

Others Present

Tom Boardman, Westlands Water District (via ZOOM)
Dana Jacobson, Valley Water
Chase Hurley, Pacheco Water District
Manny Amorelli, James Irrigation District (via ZOOM)
Lea Emmons, City of Tracy (via ZOOM)

1. Call to Order/Roll Call

Chair William Bourdeau called the meeting to order and roll was called.

2. The Water Resources Committee to Consider Additions or Corrections to the Agenda of Items, as authorized by Government Code Section 54950 et seq.

No additions or corrections.

3. Opportunity for Public Comment

No public comment.

4. Water Resources Committee to Consider Approval of the February 6, 2023 Meeting Minutes.

Chair William Bourdeau deemed the February 6, 2023 meeting minutes approved with minor corrections.

5. Water Resources Committee to Consider Recommendation to Board to Adopt Staff Recommendation for Positions on Legislation.

- a. **SB 23 (Caballero), Expedited Permitting for Water Supply and Flood Risk Reduction Projects (support)** –Water Policy Director Scott Petersen reported that SB 23 is sponsored by the Association of California Water Agencies. Petersen reported that the bill contains numerous provisions seeking to increase the efficiency of the regulatory permitting process for water supply and flood risk reduction projects, without exemption from any environmental protections. Staff recommended a support position on SB 23.
- b. **SB 361 (Dodd), Water Resources: Stream Gages (favor)** – Water Policy Director Scott Petersen reported that this bill would require DWR and the State Water Board, upon appropriation of funds by the Legislature, to reactivate, upgrade, and install new stream gages where lack of data contributes to conflicts in water management or where water can be more effectively managed for multiple benefits. Staff recommended a favor position on SB 361.

Ex Officio Member Cannon Michael made the motion to recommend the Board of Directors adopt staff recommendation for positions on legislation. The motion was seconded by Alternate Member Anthea Hansen. The Committee action is reported as follows:

AYES:	Michael, Bourdeau, Hansen, White, Gin
NOES:	None
ABSTENTIONS:	None

6. Executive Director's Report.

- a. **OM&R Water Rate Adjustment** – Executive Director Federico Barajas reported that the Authority Board of Directors adopted the initial WY 2023 OM&R rates on February 9, 2023 at a 10% agricultural water contractor allocation. Barajas reported that on February 22, 2023, the U.S. Bureau of Reclamation announced initial 2023 water supply contract allocations based on updated reservoir and hydrologic conditions. Barajas reported that the water year is currently forecasted to be non-critical, and in addition, Reclamation announced initial allocations of 35% to south-of-Delta agricultural water contractors and 75% to south-of-Delta municipal and industrial contractors. Barajas reported the Finance & Administration Committee (FAC) is meeting

this afternoon, and staff is recommending that the FAC recommend that the Board of Directors approve a rate adjustment to Water Year 2023 OM&R Water Rates based on a 35% agricultural contractor allocation.

- b. **Finance & Administration Committee Joint Ratesetting Workshop** – Executive Director Federico Barajas reported that there will be a ratesetting workshop on Monday, March 13, 2023.
- c. **Strategic Plan** - Executive Director Federico Barajas reported that he is the process of securing a contract with Martin Rauch. Barajas reported that Rauch would initiate interviews with Authority Board members to prep for the initial workshop next month.

7. **Update on Water Policy/Resources Activities.**

Water Policy Director Scott Petersen provided a brief summary of the report included in the packet. Petersen reported that the Army Corps of Engineers extended the public comment period for the draft EIS on the Delta Conveyance Project. Petersen reported that the new date for comments to be filed is March 16, and the Authority will be coordinating with member agencies on comments.

Petersen reported that the Authority joined a letter with the State Water Contractors pointing out deficiencies in the science used to support the proposed listing of the longfin smelt distinct population segment as endangered and requested a public hearing on the listing status. Petersen reported that on February 25, the Service reopened the public comment period through March 29, 2023, and will host a virtual public hearing on March 14, 2023, from 5:00 – 7:00 pm on ZOOM.

Petersen reported that the Water Blueprint will hold its next Board meeting and Large Group meeting on March 15. Petersen reported that the Technical Committee is currently working on a project ranking criteria for the Blueprint itself to include and/or support individual GSA projects as part of the Blueprint Advocacy work. Petersen reported that the Blueprint Board met in February, approving the execution of a contract with the Hallmark Group for association management services and authorizing the Communications Committee to work with the Advocacy Committee to develop a Communications Plan to guide communications for the organization.

Petersen reported that the CAP Plenary Group met and approved the formation of work groups to advance the revised Term Sheet. Petersen reported that the Work groups will be meeting to discuss several key topics listed in the Term Sheet and create near term actions and priorities.

Petersen reported that Delta-Mendota Subbasin groundwater sustainability agencies received an inadequate finding regarding the Delta-Mendota Subbasin GSPs, and the next step is a hearing in 90-120 days before the State Water Resources Control Board (SWRCB), and then 90-days to work with SWRCB staff to correct deficiencies.

8. Update on Water Operations and Forecasts.

Westlands Water District's Tom Boardman reported on Shasta storage, which is trending close to Reclamation's median forecast that shows Shasta refilling to 4.2 MAF later this spring. The expected storage increase is related to above average snowpack and approaching storm system. Folsom storage was briefly reported along with snowpack conditions.

Delta conditions were discussed including current export pumping rates. Boardman explained that Jones pumping is not currently limited, but Banks pumping is constrained by an OMR limit.

Current and near-term San Luis storage were reported followed by refill projections under dry and median conditions. A brief discussion of possible allocations also occurred.

Boardman responded to a question asked by Chairman Bourdeau regarding the magnitude and snow level of the storm expected later this week.

9. Committee Member Reports.

None.

10. Agenda Item 10-12: Closed Session

Committee Chair William Bourdeau adjourned the open session to address the items listed on the Closed Session Agenda at approximately 10:28 a.m. Upon return to open session at approximately 10:57 a.m., General Counsel Rebecca Akroyd reported that no reportable actions were taken in closed session.

11. Agenda Item 13: Reports Pursuant to Government Code Section 54954.2

None.

12. Agenda Item 14: Adjournment

The meeting was adjourned at approximately 10:58 a.m.



MEMORANDUM

TO: Water Resources Committee and Alternates, Board of Directors and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: April 3, 2023

RE: Water Resources Committee to Consider Recommendations on Legislation /
Board of Directors to Consider Same

Recommendation

Recommend to the Board of Directors to adopt the following positions on state legislation:

Support

- Adopt a position of “Support” on SB 366 (Caballero), The California Water Plan: long-term supply targets.

Favor

- Adopt a position of “Favor” on AB 422 (Alanis), Natural Resources Agency: statewide water storage: tracking.
- Adopt a position of “Favor” on AB 557 (Hart), Open meetings: local agencies: teleconferences.
- Adopt a position of “Favor” on AB 735 (Berman), Workforce development: utility careers.

Oppose

- Adopt a position of “Oppose” on AB 460 (Bauer-Kahan), State Water Resources Control Board: interim relief.
- Adopt a position of “Oppose” on AB 676 (Bennett), Water: general state policy.
- Adopt a position of “Oppose” on AB 1337 (Wicks), State Water Resources Control Board: water shortage enforcement.
- Adopt a position of “Oppose” on SB 389 (Allen), State Water Resources Control Board: determination of water right.



Summary

S.B. 366 (Caballero), The California Water Plan: long-term supply targets.

RECOMMENDATION: SUPPORT

OBJECTIVE: Core Objective

Summary

This bill would repeal the existing California Water Plan requirement language and establish new Plan requirements. The Plan would be required to be updated on or before December 31, 2028 and every five years thereafter.

DWR, in coordination with the California Water Commission (Commission), the State Water Resources Control Board (State Water Board), other state and federal agencies as appropriate, and the stakeholder advisor committee would be required to develop a comprehensive Plan for addressing the state's water needs and meeting the water supply targets. The Plan shall provide recommendations and strategies to ensure enough water supply for all beneficial uses. The bill would require the plan to include a water supply planning target of 15-million-acre feet of water by 2050 with an interim target of 10-million-acre feet of water by 2040.

The bill would require each update to the Plan to include the following components:

- A discussion of various strategies to meet supply targets, including, development of new surface and groundwater storage facilities, water conservation, water recycling, desalination, conjunctive use, improved regional and statewide conveyance, stormwater capture, and water transfers;
- A discussion of the potential advantages and disadvantages of each strategy, and identification of all federal and state permits, approvals, or entitlements that may be required in order to implement the various components of the strategy and ways to streamline those permits and approvals;
- A study to support the water supply targets and to recommend programs, policies, and facilities to achieve those targets;
- An economic analysis of the costs and impacts to the state if it has inadequate water supplies to meet current demand for all sectors of the economy and environment;
- A report on the development of regional and local water projects; and,
- A long-term financing plan.

The bill would require the Director of DWR to provide an oral and written report to the Legislature by May 1 of each year with the progress toward meeting the water supply targets in an informational hearing of the relevant committees. The report shall include the list of recommended actions that require legislative intervention and those that can be implemented by DWR or other state agencies.

The bill would require DWR, in consultation with the Commission, to establish a stakeholder advisory committee, comprised of representatives of agricultural and urban water suppliers, local government, business, production agriculture, tribes, environmental justice and environmental interests, and other interested parties. The bill would require DWR to consult with and consider recommendations from the advisory committee. The bill stipulates no member of the advisory committee shall serve for longer than



the development of two updates and the advisory committee shall meet a minimum of four times annually.

The bill would require DWR to seek out and consider all relevant information from retail and wholesale water agencies, agriculture, business, tribes, environmental and environmental justice communities and any other communities potentially impacted by the Plan and from researchers and experts on climate science, climate science solutions, water storage, water conveyance, and environmental protection.

In preparing any update of the Plan, DWR would be required to conduct a series of public workshops to give interested parties an opportunity to comment on the Plan.

The bill would require DWR to develop a long-term financing plan to meet the water supply targets and include the final financing plan as part of each update. The bill financing plan must do all the following: analyze a variety of financing mechanisms; consider cost effectiveness; and recommend actions by the state to streamline projects to achieve supply targets. The financing plan would be subject to stakeholder input and public workshops.

Status

S.B. 366 was introduced on February 8, 2023, was amended on March 22, 2023, and has been referred to the Senate Committee on Natural Resources and Water.

Amendment History

As introduced, SB 366 was a spot bill that made legislative findings and declarations and stated the intent of the Legislature to enact future legislation that modernizes the California Water Plan. The bill was amended on March 22, 2023, with the language summarized above.

Importance to the Authority

As the weather extremes brought on by climate change exacerbate existing challenges to water resources management, it has become increasingly evident that a fundamental shift in approaches to planning and managing water resource systems is critical to restoring Authority member agency water supply reliability.

The California Water Plan, updated every five years, serves as the State's strategic plan for sustainably managing and developing water resources for current and future generations. The Plan provides a forum for various stakeholders, including elected officials, agencies, tribes, and resource managers, to collaboratively develop findings that inform decisions about water policies, regulations, actions, and investments. The California Water Plan Update 2018 (Update 2018) is the 12th in a series of plans since 1957. Update 2018 recommends significant additional investment in infrastructure and ecosystem improvements to overcome challenges to sustainability. In addition, Update 2018 recommends actions to resolve systemic and institutional issues that contribute to many of the water challenges facing California. These actions include improving integrated watershed management, strengthening resiliency and operational flexibility of existing and future infrastructure, restoring critical ecosystem functions, and improving inter-agency alignment and addressing persistent regulatory challenges.

The California Water Plan Update 2023 (Update 2023) has not yet been released, however DWR indicates Update 2023 will promote climate resilience across regions and water sectors with a statewide vision, clear goals, watershed planning framework and toolkit, and progress-tracking dashboard of indicators. Update 2023 will also include updated resource management strategies, regional planning and



performance tracking tools, water balances, future scenarios, and other technical and policy-related activities related to water resilience and sustainability.

The California Water Plan process has grown stale, with many in the water community believing it to be merely a rote exercise completed on the mandated schedule without a true vision toward long term climate adaptation and planning. SB 366, sponsored by the California Municipal Utilities Association (CMUA), would modernize the California Water Plan, and include a water supply planning target of 15-million-acre feet of water by 2050 with an interim target of 10-million-acre feet of water by 2040. The bill stipulates that the target shall include new and expanded supplies from the strategies, including, but not limited to, those relating to the development of new surface and groundwater storage facilities, water conservation, water recycling, desalination, conjunctive use, improved regional and statewide conveyance, stormwater capture, and water transfers. The goal of this change would be to force the State to do longer term planning for the good of all regions; by placing some parameters around the goals and ensuring a variety of strategies are considered, this bill intends to hold DWR and other State agencies accountable in this process.

One area of SB 366 that may still be revised are the current supply planning targets; staff understand that the sponsors are still doing some scientific analysis of these goals. It will be critical to ensure that the supply targets ultimately enacted in this bill are based on solid evidence as they will be referenced for many years to come.

Pros:

- Would improve species habitat mitigation outcomes through the use Watershed Plans that allow for mitigation investments at the best available sites for species recovery and resilience.
- Would expedite state permitting of water supply and flood protection projects.
- Would save public agencies and public utilities significant costs by averting delays on projects, including Authority member agency projects in which delay can amount to millions of dollars per year.

Cons:

- The complexity of the environmental permitting process makes changes difficult even when the changes improve environmental outcomes for species, save public funding, and accelerate adaptation to a rapidly changing climate.

[A.B. 422 \(Alanis\) – Natural Resources Agency: statewide water storage: tracking](#)

RECOMMENDATION: FAVOR

OBJECTIVE: Improve Outreach and Education

Existing Law

Existing law establishes the Natural Resources Agency (Agency), composed of departments, boards, conservancies, and commissions responsible for the restoration, protection, and management of the state's natural and cultural resources. Existing law establishes in the agency the Department of Water Resources (DWR), which manages and undertakes planning with regard to water resources in the state.



Summary

This bill would require the Agency, on or before June 1, 2024, to post information tracking the progress to increase statewide water storage on its publicly available internet website and to keep that information updated.

Status

A.B. 422 was introduced on February 2, 2023, and has been referred to the Assembly Committee on Water, Parks, and Wildlife.

Importance to the Authority

California relies on an elaborate network of water storage and delivery systems to supply cities, farms, businesses and the environment with adequate water year-round. It's becoming increasingly evident, however, that a changing climate is affecting the timing and pattern of snowmelt and runoff, upsetting the historical hydrology the current water system was designed to address. Droughts are becoming more frequent and prolonged, while rainfall events have become more intense and flashy, leading to more extensive flooding. These trends have highlighted that modification of existing facilities and investments in new infrastructure, including additional storage capacity, is becoming more essential as a tool to adapt to changed conditions.

There have been various policy initiatives and funding opportunities over the past decade to expand water supplies in California. In 2014, Proposition 1 was passed, dedicating \$2.7 billion for investments in water storage projects. In 2020, the Newsom Administration released the *Governor's Water Resilience Portfolio*, serving as the Administration's blueprint for retooling California's water management system to meet the challenges presented by extreme droughts, floods and rising temperatures. In August 2022, Governor Newsom released *California's Water Supply Strategy: Adapting to Hotter, Drier Future* (Water Supply Strategy). This policy document outlines the state's strategy and a set of four priority actions to adapt and protect water supplies in an era of rising temperatures. Among these priority actions, is a call for expanding water storage capacity above and below ground by four-million-acre feet.

Despite the recognition by the State for the need to expand water supplies, California has yet to build any major water-storage infrastructure greater than one million acre-feet since the 1970s. The author of AB 422 has introduced this bill to hold the State accountable by requiring the Agency to create and publish a dashboard on its website to track the state's progress on expanding water supplies in California. By establishing a dashboard, stakeholders and the public will have a clear view of the high-level progress being made on this effort and how tax dollars are being put to use.

Numerous factors, including the impacts of climate change and California's growing population, have put immense pressure on our aging water infrastructure. In order to meet our 21st century needs for both water supply reliability and enhanced ecosystem health, it is imperative that the State advances the efforts emphasized in policy initiatives like the Governor's Water Resilience Portfolio and the Water Supply Strategy. This bill may help shed light on the status of storage capacity improvement efforts and inform stakeholders what progress is being made. For these reasons, staff recommend a position of "Favor".



Staff intends to seek improvements to the legislative or regulatory language to increase the specificity of the information contained within the dashboard, specifically to include additional information that would improve the public's knowledge of regional improvements.

Pros:

- The bill would create a location where the public could easily track the progress towards storage goals implemented by the State.

Cons:

- The legislation could be improved to increase the transparency around regional water storage improvements and potentially expanded to include other items, such as water yield, etc, that would further inform the public and policymakers.

[A.B. 557 \(Hart\) – Open meetings: local agencies: teleconferences.](#)

RECOMMENDATION: FAVOR

OBJECTIVE: Improve Outreach and Education

Summary

During the last three years of the COVID-19 pandemic there have been several bills to allow public agency elected boards subject to the Brown Act to meet without having to do so in person. AB 361 (Rivas, 2021) was enacted to permit local agencies to continue meeting virtually during emergencies if the legislative body determines virtual meetings are necessary to maintain public health and safety. AB 361 allows local agencies to virtually conduct public meetings without disclosing board members' locations; however, it expires on January 1, 2024. The legislature followed up by enacting AB 2449 (Rubio, 2022) which builds upon AB 361 and expands flexibility for legislative bodies to allow members to teleconference into meetings without revealing private addresses and exempting such from in-person public attendance, albeit with significant limitations. AB 2449 was enacted with a January 1, 2026, sunset.

AB 557 picks up where AB 2449 left off to provide a solution moving forward for publicly elected boards that may face yet another emergency where the possibility of meeting in person would increase the risk of contracting a serious illness, or in the event of another emergency that precludes meeting at a physical location. The bill covers situations such as a flood or an earthquake.

First, AB 557 amends the teleconferencing requirements for members of local legislative bodies under the Ralph M. Brown Act (Act) to allow the use of remote meetings indefinitely by removing the January 1, 2026, sunset, as specified.

AB 557 would allow publicly elected boards to use teleconferencing without requiring that agendas be posted at each teleconference location and that at least a quorum of the members participate from locations within the boundaries of the territory of the agency, if the board complies with the following:

- A. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- B. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.



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- C. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The bill requires specified processes for public comment that ensure the public continues to exercise full access. The bill also requires the legislative body to make specified findings every 45 days related to the continued need for teleconference meetings due to the emergency.

Status

A.B. 557 was introduced on February 8, 2023, and has been referred to the Assembly Committee on Local Government.

Importance to the Authority

The enactment of AB 361 (Rivas) in 2021 and AB 2449 (Rubio) in 2022 provided the flexibility that local agencies needed during an emergency that interrupted the ability to physically convene the members of a legislative body or the public, to conduct the business of providing essential public services. Should the Governor be delayed in issuing an executive order in another qualifying emergency, under AB 557 local legislative bodies would be empowered to convene using teleconferencing while maintaining high standards of public transparency and access.

The bill is sponsored by the League of California Cities, California State Association of Counties, and the California Special Districts Association to provide their members a critical tool for use in other emergencies even after the COVID-19 state of emergency expires.

The San Luis & Delta-Mendota Water Authority seeks to serve its member agencies and the communities and ecosystems they serve throughout their respective service areas and welcomes the public's participation in all Board and Board Committee meetings. Under the Governor's executive orders issued in response to the COVID-19 pandemic, Authority board members used the teleconference option for participation in meetings and public comment. AB 557 would provide an option for the Board to use teleconferencing for remote meetings during a Governor proclaimed emergency or a local emergency proclaimed by the San Luis & Delta-Mendota Water Authority Board.

Pros:

- Would provide a local official with the flexibility to participate in meetings via teleconference, outside of a declared state of emergency, while also maintaining the official's privacy regarding the teleconference location.
- May provide opportunities for a local official to represent their constituents through participation in meetings they previously would be unable to attend in person.

Cons:

- Requires a 45-day check-in by the legislative body with a declaration of a continued emergency even if the event is long-term.
-



A.B. 735 (Berman) – Workforce Development: utility careers.

RECOMMENDATION: FAVOR

OBJECTIVE: Improve Outreach and Education

Summary

AB 735 would establish the High Road Utility Careers (HRUC) program, to be administered by the Board, to connect existing resources with individuals interested in careers in the utility sector and ensure a continued reliable workforce for California utilities. The bill would require the Board to administer the HRUC program through partnerships with statewide water, wastewater, and energy utility associations and to coordinate the program with existing and future programs and initiatives administered by the Board.

The HRUC program would create partnerships with regional and State trade associations, industry groups, vocational training programs offered through nonprofit, community-based organizations, and unions to promote training on essential job duties required for working in utilities and on diversity, equity, and inclusion. The HRUC program would prioritize supportive services and career placement assistance to people from underserved and underrepresented populations. The HRUC program would also educate the potential workforce through a network of trainings, workshops, classes, and presentations on regional and statewide opportunities in the utility workforce.

The bill would require the HRUC program, upon appropriation by the Legislature, to dedicate funding and resources toward goals, including connecting workers to high-quality jobs or entry-level work with defined routes to advancement and increasing skills and opportunities while expanding pipelines for low-income populations.

This bill would also require the State Department of Education, by January 1, 2025, to partner with regional and statewide trade associations and industry groups for water, wastewater, and electric utilities, and with vocational training programs offered through unions and nonprofit, community-based organizations, to develop and distribute informational materials for career guidance to pupils in grades nine through 12, regarding the potential for employment, educational requirements, and other matters pertaining to careers in these utilities. Interested pupils would be directed to the Employment Development Department for potential placement in utility jobs.

Status

A.B. 735 was introduced on February 13, 2023, and has been referred to the Assembly Committee on Labor and Employment.

Importance to the Authority

California's utility sector, including the water industry, is currently experiencing retirements and other departures, in addition to recruitment challenges, in critical roles. The utility workforce is a valuable resource as it provides essential services to the State. Efforts are urgently needed for education and outreach to fill these employment gaps and to promote these positions to the next generation.

Pros:

- AB 735 would create a long-term, statewide program, that enhances partnerships with utilities and schools to advance career placement through providing the necessary services, training, and



education. The program would also prioritize supportive services and career placement assistance to people from underserved and underrepresented populations.

- AB 735 would provide resources to obtain and retain employment in the utility sector, to ensure a continued reliable workforce for California utilities, including the water industry.

Cons:

- AB 735 does not appropriate funds for the HRUC program, so a subsequent state budget appropriation will be required to launch the most beneficial aspects of the program.

[A.B. 460 \(Bauer-Kahan\) – State Water Resources Control Board: interim relief.](#)

RECOMMENDATION: OPPOSE

OBJECTIVE: Core Objective

Summary

This bill would authorize the State Water Board to issue an interim relief order in appropriate circumstances, after notice and an opportunity for a hearing, in adjudicative proceedings to apply or enforce any of the following:

1. Section 2 of Article X of the California Constitution;
2. The public trust doctrine;
3. Water quality objectives or principles and guidelines adopted under subdivision (b) of Section 13142, Section 13149, Section 13170, or 13241;
4. The requirements set forth in permits, licenses, certificates, and registrations issued under Part 2 (commencing with Section 1200), including actions that invoke the State Water Board's reserved jurisdiction or continuing authority;
5. Section 5937 of the Fish and Game Code.

The bill would prohibit the State Water Board from accepting a petition that does not include all of the following information:

1. The name and mailing address of the petitioner.
2. A description of the specific diversion or use of water that the petitioner is contesting.
3. A statement of the petitioner's interest in the contested diversion or use of water.
4. Identification of the adjudicative proceedings in which interim relief is requested.
5. A description of the harm or injury complained of.
6. An explanation of the nexus between the diversion or use and the alleged harm or injury.
7. The relief the petitioner is requesting.
8. A statement of reasons explaining why the relief is justified.
9. Any additional information that the State Water Board may deem appropriate.

The bill would give the State Water Board the discretion to require that the evidence to be considered be based on declarations under penalty of perjury, the testimony of witnesses at the hearing, or both. The bill would also require the State Water Board to consider oral or written legal arguments provided in a timely manner by the parties. The bill would authorize the State Water Board to dismiss a petition that does not raise substantial issues that are appropriate for review.



The State Water Board may commence an interim relief proceeding on its own motion or upon the petition of an interested party. The bill would require the State Water Board provide at least 20 days' notice before the hearing date, unless the State Water Board concludes that consideration of the matter is urgent. If an interim relief order is issued without providing at least 20 days' notice before the hearing date, or if the State Water Board issues an interim relief order after considering the declaration of any witness who is not available for cross-examination, the interim relief order shall remain in effect for no more than 180 days, unless the party to whom the order is issued agrees to an extension of that period.

The bill requires the State Water Board, when determining whether to provide interim relief, and the nature and extent of the relief, to consider all relevant circumstances, including the effects on other legal users of water, fish, wildlife, and other instream beneficial uses, the extent of harm, the necessity for relief, and any appropriate measures to minimize any adverse effects of providing interim relief. The bill stipulates sufficient grounds shall exist for interim relief upon the same showing as would be required for a superior court to grant a preliminary injunction.

As part of the interim relief order, the State Water Board may require a water diverter or user to do any of the following:

1. Cease all harmful practices;
2. Employ specific procedures and operations to prevent or mitigate the harm;
3. Complete technical and monitoring work and prepare and submit reports on that work, including draft environmental documentation;
4. Participate in, and provide funding for, studies that the State Water Board determines are reasonably necessary to evaluate the impact of the diversion or use that is the subject of the adjudicative proceeding;
5. Reimburse the State Water Board's expenses for the preparation of any necessary environmental documentation;
6. Take other required action.

The bill would require the State Water Board to set a schedule for compliance with any relief order. The bill also requires the State Water Board to set a schedule, as soon as reasonably possible, for consideration of permanent relief. The bill specifies that any permanent relief shall be granted after notice and an opportunity for a hearing.

The bill provides that any interim relief order issued by the State Water Board is exempt from the California Environmental Quality Act (CEQA) as long as (1) the State Water Board finds that providing interim relief will not have a significant adverse effect on the environment, or (2) that providing interim relief will result in environmental benefits or prevent harm to environmental resources, and the benefits provided or harm prevented outweighs any adverse effects that may result from providing interim relief. If the State Water Board makes these findings, the bill would require the State Water Board to adopt a reporting and monitoring program in accordance with Section 21081.6 of the Public Resources Code.

The bill authorizes the State Water Board to review and revise any part of an interim relief order at any time after notice to all interested parties and an opportunity for a hearing.

If a water diverter or user does not comply with an interim relief order, the bill would require the Attorney General, upon the request of the State Water Board, to petition the Superior Court for prohibitory or



mandatory injunctive relief, as necessary, through the issuance of a temporary restraining order, preliminary injunction, or permanent injunction. The bill would require the Superior Court to impose the civil penalty if it determines by a preponderance of the evidence that the water diverter or user subject to the interim relief order has violated the order.

Any person or entity that violates an interim relief order would be liable for a civil penalty not to exceed the sum of \$10,000 for each day in which the violation occurs and \$5,000 for each acre-foot of water diverted in violation of the interim relief order. In determining the appropriate amount, the court or the State Water Board, as the case may be, would be required to consider all the relevant circumstances, including the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and any corrective action undertaken by the violator. All funds recovered pursuant to these violations are to be deposited in the Water Rights Fund.

Status

A.B. 460 was introduced on February 6, 2023, and has been referred to the Assembly Water, Parks, and Wildlife and Judiciary Committees. The Asm Water, Parks and Wildlife Committee hearing is scheduled for April 18, 2023.

Amendment History

According to staff, the author of the bill plans to include an amendment that would increase penalties in Water Code Section 1846 from \$500 per day to \$10,000 per day, as well as add a \$5,000 per acre foot penalty. The author is also considering increasing the penalty under Water Code, Section 1052 (trespass). The increase is still TBD and will not be as high as in Section 1846.

Importance to the Authority

AB 460 derives from a recommendation in the Planning and Conservation League's (PCL) recent report, *Updating California Water Laws to Address Drought and Climate Change* (Report). The Report stipulates that effective water rights administration depends, in part, on adequate and timely enforcement and that providing the State Water Board with the ability to impose interim relief orders would allow urgent decisions to be made in a timely manner, eliminate the need for duplicative proceedings in court, and better protect the state's water resources.

The PCL Report notes the State Water Board and the courts have concurrent jurisdiction to enforce water rights law, including proceedings brought in response to violations of water right permits and licenses, violation of the public trust doctrine, or waste or unreasonable use of water. Although both entities maintain jurisdiction, the processes to take enforcement action differ. Courts maintain the ability to take immediate relief action, through a temporary restraining order or a preliminary injunction, without opportunity for a full evidentiary hearing. The State Water Board, on the other hand, may only impose requirements after providing an opportunity for an evidentiary hearing. Further, the courts are not required to comply with CEQA before taking action, whereas the State Water Board must comply with CEQA or rely on an exemption from CEQA before taking action.

What AB 460 Seeks to Resolve

According to the PCL Report, existing law doesn't include any specific authority or administrative procedures to provide for interim relief during the pendency of an enforcement action. The Report argues that without the ability to impose interim relief, irreparable damage can continue to occur to the



environment and other water right holders during the length of an adjudicative proceeding. Between procedural requirements with particular time frames that must be met before final action can be taken, and compliance with CEQA, the Report authors argue that the State Water Board is routinely unable to take swift action on urgent matters.

Inspiration for AB 460

According to the author, AB 460 is inspired by an incident last August where a group of farmers, collectively representing the Shasta River Water Association, knowingly violated a curtailment order issued by the State Water Board. For several days the farmers illegally diverted water from the Shasta River, opting to face a fine from the State Water Board rather than the mounting costs from hauling water and purchasing hay to replace dried out pastures. Under existing law, the State Water Board could only assess a penalty of up to \$500 per day for violation of the curtailment order, which ultimately resulted in a \$4,000 fine for the ranchers. In addition, existing law prevented the State Water Board from acting more swiftly. Execution of a cease and desist order (CDO) is delayed because the party receiving the CDO has 20 days to request a hearing. As a result, the State Water Board may have to wait 20 days before it can stop harmful activities. The author of AB 460 argues that the small penalties and long delay underscore the limited powers that the State Water Board has to quickly respond to illegal diversions.

While the author states that AB 460 is meant to respond to this incident on the Shasta River, the bill would authorize the State Water Board to issue interim relief to address much more than violations of curtailment orders. In addition to enforcing curtailment orders, the bill would apply to:

- Enforcement of Fish and Game Code Section 5937, which provides protection for fishes below dams.
- Enforcement of the public trust doctrine, which could authorize the State Water Board to adopt an interim relief order imposing new minimum instream flows.
- Section 2 of Article X of the California Constitution.
- Enforcement of water quality objectives or principals and guidelines, which could result in interim relief orders to address discharges, in addition to diversions.

Legislative Initiatives to Require Interim Relief

Limitation on the ability of the State Water Board to require interim relief has resulted in multiple bills over the last three decades. SB 681 (Pavley, 2009) included many of the same provisions present in AB 460. It, too, would have authorized the State Water Board to issue interim relief orders in appropriate circumstances, authorize the State Water Board to require water diverters or user to take numerous actions including completing technical studies and environmental documentation, as well as authorize fines for any person or entity who violates any interim relief order. SB 681 ultimately failed to pass the California Senate.

Concerns with AB 460

Public trust doctrine – AB 460 authorizes the State Water Board to issue an interim relief order to enforce the public trust doctrine, however, the bill provides no definition for that term. Despite its function as a foundational aspect of environmental law, courts have been unable to come to an agreement on a precise definition and when and where it applies. The doctrine requires the state to hold in trust designated resources for the benefit of the people; however, which natural resources it applies to have been subject



to debate. Providing the State Water Board with the power to determine what the public trust doctrine applies to and when could result in troubling precedents being set.

Section 5937 of the Fish and Game Code – AB 460 also authorizes the State Water Board to issue interim relief to apply or enforce Section 5937 of the Fish and Game Code. This section of the FGC stipulates that the owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. The key actionable item in this section being that fish must be maintained in “good condition” below the dam. AB 460 would allow interested parties upset with dam releases to seek immediate state intervention and authorize the State Water Board to essentially take over operations, potentially at a moment’s notice. It is worth noting that the PCL report recommends amending Section 5937 to allow sufficient water *of sufficient flow and temperature* at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water of sufficient flow and temperature to pass over, around or through the dam.

Notice, hearing, and standard of review – This bill would allow the State Water Board to issue interim relief without a notice and hearing if the Board considered the matter to be “urgent.” The lack of clarity regarding the standard of review compounds these concerns. The bill specifies that sufficient grounds for an interim relief order would require the same showing as would be required for a superior court to grant a preliminary injunction. It is not clear whether this is in reference to the burden of proof, standard of review, process, or all three. It is also difficult to reconcile this directive with other aspects of the bill that allow the State Water Board to take into account other considerations when deciding whether to issue interim relief.

AB 460 would also authorize the State Water Board to issue an interim relief order with less notice, and potentially under a lower standard, than any state or federal court is required to meet in order to grant similar relief¹. It is also worth noting that the lines between plaintiff and judge are blurred in AB 460. Unlike a preliminary injunction where an independent court would determine whether “sufficient grounds” exist to issue an order, AB 460 would place this authority with the State Water Board, which may be acting on its own motion.

Requirements and Fines for Water Rights Holders - AB 460 could place onerous and costly requirements on water users involved in interim relief. Water users could be ordered to complete technical and monitoring work at their own expense, whether that be the water user conducting the studies or reimbursing the State Water Board for the preparation of any necessary environmental documentation. Water users could also be required to participate in, and provide funding for, any studies that the State Water Board determines are reasonably necessary to evaluate the impact of the diversion or use that is the subject of the adjudicative proceeding. In addition, if a water right holder violates the interim relief order, they would be liable for penalties of up to \$10,000 per day plus \$5,000 per acre-foot.

¹ California Code of Civil Procedure section 527 prohibits a court from issuing a preliminary injunction without notice to the opposing party.



Pros:

- The bill, if enacted, could increase the ability of the State Water Resources Control Board to enforce the existing water rights system with greater penalties for violations.

Cons:

- Significant concerns with expanded authority granted to SWRCB to pursue interim relief under a wide variety of conditions that are currently subject to due process
 - The fact sheet for the bill states this bill is intended to respond to last year's incident on the Shasta River, however, the scope of the bill applies far beyond violations of curtailment orders during emergency drought conditions.
-

A.B. 676 (Bennett) – Water: general state policy.

RECOMMENDATION: OPPOSE

OBJECTIVE: Core Objective

Summary

This bill would provide specific examples of the use of water for domestic purposes. These purposes include, but are not limited to, water use for all of the following:

1. Sustenance of human beings and household conveniences;
2. Care of household livestock and animals;
3. Care of household gardens; and,
4. Deliveries of water by community water systems, other public, municipal, and industrial water agencies, and water corporations regulated by the Public Utilities Commission.

The bill would provide that all water rights remain subject to the reasonable use doctrine, pursuant to Section 2 of Article X of the California Constitution, and the public trust doctrine, as provided in *National Audubon Society v. Superior court* (1983) 33 Cal.3d 419 and subsequent California court decisions. the bill would also state that pursuant to Water code section 85023—which is a general policy statement in the Delta Reform Act—the longstanding constitutional principle of reasonable use and the public trust doctrine provide the foundation for state water management policy.

Status

A.B. 676 was introduced on February 14, 2023, was amended on March 13, 2023, and has been referred to the Assembly Committee on Water, Parks, and Wildlife.

Amendment History

As originally introduced, AB 676 would have declared that the use of water for 'health and safety' purposes is the highest use of water. On March 13, the bill was amended, reverting to declaring 'domestic purposes' as the highest use of water. However, the bill now provides specific examples of 'domestic purposes' and explicitly states that all water rights remain subject to the reasonable use and public trust doctrines.

Importance to the Authority

AB 676 is another piece of water rights legislation that has been introduced this year. The bill seeks to amend Water Code Section 106, a foundational code section for California's water rights system. This



code section provides a clear policy directive that the highest use of water in California is for domestic purposes and that the next highest use is for irrigation. This section creates an important legal tool for the State Water Resources Control Board (State Water Board) and courts in regulating and managing water resources in the state, ensuring that water is used in a sustainable and equitable manner that benefits all water users. AB 676 could confuse the understanding of this foundational code section by inserting redundant references to existing laws that have nothing to do with establishing priority of use.

AB 676 would incorporate the public trust doctrine into Section 106. While it appears to be an attempt to codify existing law, it is not an accurate statement of the law. It would broaden the reach of the public trust doctrine, “as provided in *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419,” to “all water rights”. However, the holding of *National Audubon* does not cover some water rights, such as non-interconnected groundwater and treaty rights. Second, the case law after *National Audubon* provides little guidance about what the public trust doctrine’s demands actually are, so it remains unclear what the doctrine actually requires in practice. This bill would not provide any additional clarity. This is problematic in its inaccuracy and lack of clarity and is likely to do little more than cause confusion. The same can be said with regards to the bill’s reference to Water Code section 85023, which is a general policy statement in the Delta Reform Act. This may be viewed as applying this policy more broadly than just to the Bay-Delta, and how this would be applied in practice is completely unknown.

The bill also states that “[a]ll water rights remain subject to the reasonable use doctrine....” The reasonable use doctrine is already established in Article X, Section 2 of the California Constitution, so it is unclear why there is a need to restate it in this code section. All this would do is create confusion about whether the statute means something different than the Constitution, since it could be read to suggest that the “reasonable use doctrine” is something different than Article X, Section 2—which it is not under statute or court interpretation. It is also possible the proposed paragraph (1) of subdivision (c) could be confused with the meaning of Water Code section 100, which also states a version of the state policy of reasonable and beneficial use of the state’s water resources.

At best, subdivision (c) includes restatements of existing law, making it superfluous. At worst, it will cause confusion about the meaning and intent of the Legislature within this important section of the Water Code.

AB 676 also attempts to clarify the meaning of “domestic purposes.” The bill provides a non-exclusive list of domestic purposes of water use, which are largely reflective of uses that existing law already provides. The California Code of Regulations, specifically, Cal. Code Regs. Tit. 23 § 660, already defines “domestic use” as:

The use of water in homes, resorts, motels, organization camps, camp grounds, etc., including the incidental watering of domestic stock for family sustenance or enjoyment and the irrigation of not to exceed one-half acre in lawn, ornamental shrubbery, or gardens at any single establishments. The use of water at a camp ground or resort for human consumption, cooking or sanitary purposes is a domestic use.

There are differences between the type of uses covered in the regulations and AB 676. The bill could be reconciled to reflect the uses included in the regulations, but Authority staff believes there is no need to incorporate the regulations into statutory language.



Pros:

- The bill could provide clarity to the meaning of domestic purposes under California statute.

Cons:

- The legislation could inject significant uncertainty into the administration of the water rights system
 - The legislation has inconsistencies between the statutory language and existing regulatory language that defines “domestic purposes”.
-

[A.B. 1337 \(Wicks\) – State Water Resources Control Board: water shortage enforcement.](#)

RECOMMENDATION: OPPOSE

OBJECTIVE: Core Objective

Summary

The bill would authorize the State Water Board to adopt regulations for any of the following reasons:

- a) To prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water;
- b) To promote water recycling or water conservation;
- c) To protect public trust resources;
- d) To require curtailment of diversions when water is not available under the diverter’s priority of right; and,
- e) In furtherance of any of the purposes of this section, to require reporting of diversion or use or the preparation of monitoring reports.

The bill would authorize the State Water Board to implement regulations through orders curtailing the diversion or use of water under any claim of right. The bill would require the State Water Board to provide notice and an opportunity to be heard, except where an opportunity to be heard before the issuance of an order would be impractical given the likelihood of harm to the purposes outlined in the above A-E, or other relevant circumstances. The bill stipulates if the State Water Board does not provide an opportunity to be heard before the issuance of an order, the board shall promptly provide the opportunity after the issuance of the order. In the event the State Water Board issues an order without a hearing, the bill provides the process for reconsideration described in Chapter 4 of the Water Code (commencing with section 1120) as an example of a process the Board could utilize for a subsequent hearing. However, the bill does not prescribe a process for that subsequent hearing. The bill would allow the State Water Board to tailor the hearing to the circumstances of the order and allow the hearing to be collective, rather than an individual, process. Additionally, the bill would allow the hearing to be oral or written.

The bill stipulates a person or entity may be civilly liable for a violation of any regulation or order issued under this chapter in an amount not to exceed the sum of the following:

- 1) \$1,000 for each day in which the violation has occurred; and,
- 2) \$2,500 for each acre-foot of water diverted or used in violation of the applicable requirement.



The bill would authorize civil liability to be imposed by the superior court. The bill would also authorize civil liability to be imposed administratively by the State Water Board pursuant to Section 1055 of the Water Code.

Lastly, the bill exempts any regulation or order issued by the State Water Board under this chapter from CEQA.

Status

A.B. 1337 was introduced on February 16, 2023, and has been referred to the Assembly Committees on Water, Parks, and Wildlife and Judiciary.

Importance to the Authority

AB 1337 greatly expands the authority of the State Water Board to restrict diversions through regulation and to implement these regulations through orders curtailing the diversion or use of water under any claim of right. The authority to adopt regulations in AB 1337 is similar to section 1058.5. However, section 1058.5 only authorizes the State Water Board to adopt emergency regulations in certain drought years that remain in effect for up to one year. AB 1337 would authorize the State Water Board to adopt permanent regulations in any water year. Additionally, the bill would allow the State Water Board to adopt regulations to “protect public trust resources,” which is not included in section 1058.5.

While the bill stipulates the State Water Board would be required to provide notice and opportunity to be heard before issuance of an order, the bill additionally authorizes the State Water Board to issue a curtailment order *before* opportunity to be heard in the event it feels it would be impractical given the likelihood of harm to the purposes described in Section 1065 (to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation, to protect public trust resources, to require curtailment of diversions when water is not available under the diverter’s priority of right, or in furtherance of any of these purposes to require reporting of diversion or use or the preparation of monitoring reports) or *other relevant circumstances*.

The practice of issuing curtailment orders before a hearing would have serious implications for water diverters. It would be unlikely that the State Water Board can fill up every Board agenda for months with hearings, and water diverters who have been curtailed without opportunity to be heard first, would likely be impacted by the timing of when the State Water Board can put their hearing on the agenda. Essentially, AB 1337 would provide authority for the State Water Board to adopt regulations when it sees fit and for nearly any purpose it sees fit. Once those regulations are adopted, the bill would provide the State Water Board the ability to enforce without appropriate due process.

The bill also provides that any regulation or order issued by the State Water Board pursuant to the provisions in this bill or Section 1058.5 of the Water Code would be exempt from the requirements of CEQA. While AB 460 (Bauer-Kahan) also provides the State Water Board with a CEQA exemption for any interim relief order issued, Ab 460 requires the State Water Board to first make any finding that the regulation or order will not have a significant adverse effect on the environment, or that implementing the regulation or order will result in environmental benefits or prevent harm to environment resources, and that the benefits provided or harm prevented outweighs any adverse effects that may result from adopting a regulation or implementing an order. This requirement is not present in AB 1337.



Pros:

- None identified

Cons:

- Significant concerns with expanded authority granted to SWRCB to pursue interim relief under a wide variety of conditions that are currently subject to due process
-

[S.B. 389 \(Allen\) – State Water Resources Control Board: determination of water right.](#)

RECOMMENDATION: OPPOSE

OBJECTIVE: Core Objective

Summary

The bill would authorize the State Water Board to investigate the diversion and use of water from a stream system to determine whether the diversion and use are based upon appropriation, riparian right, or other basis of right. The bill would authorize the State Water Board to, in furtherance of an investigation, issue an information order to a water right claimant, diverter, or user to provide technical reports or other information related to a diversion and use of water, including but not limited to all of the following:

- 1) Information in addition to any information required to be reported pursuant to Part 5.1 (commencing with Section 5100);
- 2) Information related to the basis of the water right claimed;
- 3) Information related to the patent data claimed for the place of use;
- 4) Information related to the notice date of the appropriation and the date of actual delivery of water to beneficial use;
- 5) Information related to prior diversions and use, including direct diversions and diversions to storage; and,
- 6) Information related to the diversions and use of transferred water.

The bill authorizes the State Water Board to, after notice and opportunity for hearing, issue a decision or order determining the diversion and use basis of right, including the authorized scope of the diversion and use, or issue a decision or order determining that the diversion and use is not authorized under any basis of right.

In determining under this article whether a holder of an appropriative water right has forfeited the right or any portion of the right pursuant to Water Code section 1240 and 1241, the bill would not require the State Water Board to find the existence of a conflicting claim by any water right holder within the stream system during the period of forfeiture. The bill stipulates that in any State Water Board proceeding to determine a diversion and use basis of right under this article, the water right claimant, diverter, or user shall have the burden of proving by the preponderance of evidence the elements of the basis of right.

Status

S.B. 389 was introduced on February 9, 2023, and has been referred to the Senate Committee on Natural Resources and Water.



Importance to the Authority

SB 389 presents significant concerns. The issues identified are as follows:

The investigation process outlined in this bill would apply to permittees and licensees who are operating under permits or licenses issued by the State Water Board or a predecessor state agency.

SB 389 would authorize the State Water Board to order a diverter to submit many technical reports in support of a claimed right. Water right adjudications can involve multiple rounds of testimony that included both sides presenting extensive historical, engineering, and agricultural expert testimony. Compiling technical reports of this level could be incredibly time consuming and costly for diverters and should not be required simply because the State Water Board is interested in the basis of right. An alternative approach to this process would be for the first submission to the State Water Board be from whatever *existing* material the diverter has, with any additional information being based on a determination by the State Water Board that the submission is inadequate.

Next, the bill provides that after notice and opportunity for hearing, the State Water Board may issue a decision or order determining the diversion and use basis of right, including the authorized scope of the diversion and use, or may issue a decision or order determining that the diversion and use is not authorized under any basis of right. It's unclear what "after notice and opportunity for hearing" means and whether or not a diverter may obtain a hearing. Further, this language does not stipulate the conditions in which a requested hearing could be denied.

SB 389 would implement a rule that there doesn't have to be a conflicting water use for a non-use to be a partial or complete forfeiture. This provision would reverse the Court of Appeal's decision in the *North Kern Water Storage Dist. v. Kern Delta Water Dist.* (Cal. Ct. App. Jan 31, 2003) and *Millview County Water Dist. v. State Water Resources Control Bd.* (2014) 229Cal.App.4th 879 (Millview I).

Lastly, this bill changes the burden of proving by the preponderance of evidence the elements of the basis of right on the diverter. According to the Planning and Conservation League Report, imposing the burden of proof upon a water right claimant in a State Water Board proceeding allows the State Water Board more promptly to identify and quantify the rights to surface water that remain outside of the Water Commission Act statutory system than is possible under existing law. The Report further argues this burden principle is like the one the State Water Board uses when it conducts a statutory adjudication of a stream system to determine the basis of right of claimants to a stream. Section 2528 of the Water Code reads "Whenever proceedings are instituted for the determination of rights to water, it is the duty of all claimants interested therein and having notice thereof as provided in this chapter, to notify the board of their intention to file proof of claim and to appear and submit proof of their respective claims at the time and in the manner required by this chapter." The Report goes on to argue that if the State Water Board can require all water right claimants to meet the burden of proving up their water rights during an adjudication of an entire stream system, then there exists no policy justification to impose a lesser burden when the State Board investigates and initiates a proceeding as to individual water rights. A statutory adjudication also requires the State Water Board to give notice to all interested parties, receive claims, conduct an investigation, and hold hearings before making an order of determination. These same due process protections are not guaranteed in SB 389.



While SB 389's overarching intention is to ensure water right claimants are in fact diverting what they have the right to divert and use, it includes some troubling provisions that expand the authority of the State Water Board and subject water diverters to potentially costly and resource intensive investigations.

Pros:

- None identified.

Cons:

- Requires water rights claimants to meet a standard that is consistent with stream adjudications on individual water rights claims
- Likely to significantly increase costs for water rights holders and place additional risk on nonperfected historical rights

Guidelines for Taking Positions on Legislation

A number of controversial bills are introduced each year in the Congress and in the California Legislature. It is important to understand how the Authority takes positions on legislation.

Policy

By Agenda Item 9, dated December 8, 2022, the Board adopted the Fiscal Year 2024 Objectives.

Water Authority's Positions on Legislation

The Water Authority takes positions on legislation that, if enacted, would impact Water Authority members, consistent with Water Authority Board adopted Goals and Objectives. The Water Authority may take the following positions on legislation: Oppose, Support, Oppose Unless Amended, Support if Amended, Not Favor, Favor, Not Favor Unless Amended, Favor if Amended, and Watch (neutral). The Water Authority's staff and consultants testify and advocate with legislators and staff through meetings and member agency contacts on all positions except Watch, Favor and Not Favor. For Favor and Not Favor positions, written communication of the Water Authority's position is provided to the legislator. Nothing in this section should be read to preclude the Executive Director or his or her delegee from taking an informal support or informal oppose position on behalf of the Water Authority that is consistent with adopted legislative or policy objectives, or to preclude the Executive Director from communicating a position on emergency legislation after obtaining the concurrence of the Chair, or the Chair's designee, provided that the Executive Director informs the Board regarding such positions on emergency legislation no later than the next regularly scheduled Board meeting.

Amendment Development Process

If the Water Authority takes an Oppose Unless Amended or Support if Amended position, the Water Authority will typically discuss the concepts for the amendments at the meeting. Then Water Authority staff, in consultation with Committee and/or Board Members as needed, will develop the amendments after the meeting.



Information Sharing

To provide adequate information to the entire Water Authority membership, the Water Authority provides legislative updates, posts positions and other information on our website, and sends out advisories and alerts on key legislation.

The Water Authority's legislative department is available to provide specific information on bills on request and Board Members are encouraged to communicate Water Authority positions on priority legislation in meetings with legislative staff, consistent with Water Authority policy. The Water Authority's Water Policy Director appreciates being informed by Water Authority members of positions taken by Water Authority members on legislation.

BILL TEXT

AMENDED IN SENATE MARCH 22, 2023

SENATE BILL

No. 366

Introduced by Senator Caballero
(Coauthor: Assembly Member Blanca Rubio)

February 8, 2023

An act to amend Section 10004.6 of, to repeal Sections 10004.5 and 10013 of, and to repeal and add Sections 10004 and 10005 of, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 366, as amended, Caballero. The California Water Plan: long-term supply targets.

Existing law requires the Department of Water Resources to update every 5 years the plan for the orderly and coordinated control, protection, conservation, development, and use of the water resources of the state, which is known as the California Water Plan. Existing law requires the department to include a discussion of various strategies in the plan update, including, but not limited to, strategies relating to the development of new water storage facilities, water conservation, water recycling, desalination, conjunctive use, water transfers, and alternative pricing policies that may be pursued in order to meet the future needs of the state. *Existing law requires the department to establish an advisory committee to assist the department in updating the plan.*

~~This bill would make legislative findings and declarations and state the intent of the Legislature to enact future legislation that modernizes the California Water Plan, including the establishment of long-term water supply targets.~~

This bill would require the department to instead establish a stakeholder advisory committee, to expand the membership of the

committee to include tribes and environmental justice interests, to prohibit a member of the committee from serving longer than the development of 2 updates, and to require the committee to meet a minimum of 4 times annually. The bill would require the department, in coordination with the California Water Commission, the State Water Resources Control Board, other state and federal agencies as appropriate, and the stakeholder advisory committee to develop a comprehensive plan for addressing the state's water needs and meeting specified water supply targets established by the bill for purposes of "The California Water Plan." The bill would require the plan to provide recommendations and strategies to ensure enough water supply for all beneficial uses. The bill would require the plan to include specified components, including an economic analysis and a long-term financing plan. The bill would require the department to develop the long-term financing plan, as provided, to meet the water supply targets and include the final financing plan as part of each update. The bill would require the Director of Water Resources to provide an oral and written report to the Legislature, each year by May 1, regarding the progress made toward meeting the water supply targets, as specified. The bill would also require the department to conduct public workshops to give interested parties an opportunity to comment on the plan and to post the preliminary draft of the plan on the department's internet website. The bill would include findings and declarations relating to water supply and climate change.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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) *To thrive as a state, California needs a reliable supply of*
- 4 *water for urban, agricultural, and environmental uses that is*
- 5 *resilient to climate change.*
- 6 (b) *California's existing water usage is highly reliant on*
- 7 *capturing the snow melt on an annual basis. That water is stored*
- 8 *in lakes, reservoirs, and groundwater basins and is then*
- 9 *transported around the state for environmental, residential,*
- 10 *business, and agricultural use when needed.*

1 (c) California has the most intricate and elaborate system of
2 water conveyance in the world.

3 (d) Dependent on the extent of drought or flood conditions, the
4 Department of Water Resources has calculated that the volume of
5 water used by people in California for agricultural, urban, and
6 environmental purposes ranges from 60,000,000 acre-feet per
7 year to 90,000,000 acre-feet per year.

8 (e) Per capita water use has declined over time, thanks to a
9 conservation ethic encouraged by water agencies and other
10 stakeholders, water-saving indoor plumbing fixtures and
11 appliances, better leak detection, and efforts to reduce outdoor
12 water use.

13 (f) Water use also has significantly declined in the agricultural
14 sector thanks to proactive steps taken by irrigation districts and
15 farmers, such as installing drip irrigation systems.

16 (g) California is experiencing significant impacts of a changing
17 climate on our water supply systems.

18 (h) According to the Department of Water Resources, hotter
19 and drier weather is estimated to diminish our existing water
20 supply even further and likely by 10 percent.

21 (i) A 10-percent loss could mean the disappearance of about
22 6,000,000 acre-feet to 9,000,000 acre-feet of water supply.

23 (j) Many rivers, lakes, and estuaries are being impacted by
24 declining water quality, including increases in harmful algal
25 blooms.

26 (k) The California central valley has a groundwater overdraft
27 of 2,000,000 to 3,000,000 acre-feet of water.

28 (l) Following more than two decades of “megadrought” in the
29 Colorado Basin, reservoir levels are so low that supply cuts are
30 likely.

31 (m) California’s precipitation is changing from seasonal snow
32 in the Sierra to periods of substantial rainfall, including from
33 atmospheric rivers.

34 (n) The shift to drier dry years and wetter wet years makes it
35 imperative that the state of California develop comprehensive wet
36 year strategies that take full advantage of times of abundance,
37 while also ensuring public safety from floods.

38 (o) It is imperative that California capture more water from
39 atmospheric rivers and other storms that occur during dry years
40 to help fill groundwater basins and surface storage.

1 (p) California is the nation's agricultural powerhouse,
2 accounting for 12 percent of agricultural production in 2021,
3 including more than 70 percent of the nation's fruits and nuts.

4 (q) The agricultural sector produces annual revenues of more
5 than \$50 billion, employs more than 420,000 people, and supports
6 large food and beverage processing industries.

7 (r) According to the Department of Water Resources, there is
8 the potential for more than 13,000,000 acre-feet of groundwater
9 recharge annually with more than 2,5000,000 acre-feet being
10 possible using existing infrastructure.

11 (s) The Department of Water Resources describes a statewide
12 capacity in groundwater basins in the range of 1,000,000,000
13 acre-feet or approximately 20 times the total surface water storage
14 capacity statewide.

15 (t) California is the home to cutting-edge job-creating industries,
16 such as those in Silicon Valley and southern California's biotech
17 industry.

18 (u) Local and regional water suppliers are at the forefront of
19 implementing projects to build resiliency, but need additional
20 support from the state and federal governments through funding
21 and regulatory frameworks that are adapted for the new climate
22 reality.

23 (v) It is essential for our economy, environment, and well-being
24 that California increases the resilience of the state's water supplies.

25 (w) Governor Gavin Newsom released "California's Water
26 Supply Strategy: Adapting to a Hotter, Drier Future" in August
27 2022 that began to outline strategies for increasing California's
28 water supply and streamlining approvals, but California must
29 make a historic change in the state's comprehensive water plan
30 and how water is provided for environmental, residential, business,
31 and agricultural uses.

32 SEC. 2. Section 10004 of the Water Code is repealed.

33 ~~10004. (a) The plan for the orderly and coordinated control,~~
34 ~~protection, conservation, development, and utilization of the water~~
35 ~~resources of the state which is set forth and described in Bulletin~~
36 ~~No. 1 of the State Water Resources Board entitled "Water~~
37 ~~Resources of California," Bulletin No. 2 of the State Water~~
38 ~~Resources Board entitled, "Water Utilization and Requirements~~
39 ~~of California," and Bulletin No. 3 of the department entitled, "The~~
40 ~~California Water Plan," with any necessary amendments,~~

1 supplements, and additions to the plan, shall be known as “The
2 California Water Plan.”

3 (b) (1) The department shall update The California Water Plan
4 on or before December 31, 2003, and every five years thereafter.
5 The department shall report the amendments, supplements, and
6 additions included in the updates of The California Water Plan,
7 together with a summary of the department’s conclusions and
8 recommendations, to the Legislature in the session in which the
9 updated plan is issued.

10 (2) The department shall establish an advisory committee,
11 comprised of representatives of agricultural and urban water
12 suppliers, local government, business, production agriculture, and
13 environmental interests, and other interested parties, to assist the
14 department in the updating of The California Water Plan. The
15 department shall consult with the advisory committee in carrying
16 out this section. The department shall provide written notice of
17 meetings of the advisory committee to any interested person or
18 entity that request the notice. The meetings shall be open to the
19 public.

20 (3) The department shall release a preliminary draft of The
21 California Water Plan, as updated, upon request, to interested
22 persons and entities throughout the state for their review and
23 comments. The department shall provide these persons and entities
24 an opportunity to present written or oral comments on the
25 preliminary draft. The department shall consider these comments
26 in the preparation of the final publication of The California Water
27 Plan, as updated.

28 *SEC. 3. Section 10004 is added to the Water Code, to read:*

29 *10004. (a) The department, in coordination with the California*
30 *Water Commission, the board, other state and federal agencies*
31 *as appropriate, and the stakeholder advisory committee outlined*
32 *in subparagraph (A) of paragraph (3) of subdivision (f) shall*
33 *develop a comprehensive plan for addressing the state’s water*
34 *needs and meeting the water supply targets in subdivision (c),*
35 *which shall be known as “The California Water Plan.” The plan*
36 *shall provide recommendations and strategies to ensure enough*
37 *water supply for all beneficial uses.*

38 *(b) It is hereby declared that the people of the state have a*
39 *primary interest in the orderly and coordinated control, protection,*
40 *conservation, development, and utilization of the water resources*

1 of the state by all individuals and entities and that it is the policy
2 of the state that The California Water Plan, with any necessary
3 amendments, supplements, and additions to the plan, is accepted
4 as the master plan that guides the orderly and coordinated control,
5 protection, conservation, development, management, and efficient
6 utilization of the water resources of the state.

7 (c) The department shall include in the plan a water supply
8 planning target of 15,000,000 acre-feet of water by 2050 with an
9 interim target of 10,000,000 acre-feet of water by 2040 to ensure
10 water supply reliability for California's future economic and
11 environmental sustainability. The target shall include new and
12 expanded supplies, including from the strategies listed in
13 subparagraph (A) of paragraph (1) of subdivision (d).

14 (d) In addition to the water supply planning targets in
15 subdivision (c), each update of the plan shall include the following
16 components:

17 (1) (A) A discussion of various strategies, including, but not
18 limited to, those relating to the development of new surface and
19 groundwater storage facilities, water conservation, water
20 recycling, desalination, conjunctive use, improved regional and
21 statewide conveyance, stormwater capture, and water transfers
22 that may be pursued in order to meet the water supply targets in
23 subdivision (c). The department shall include in the plan a
24 discussion of the potential advantages and disadvantages of each
25 strategy, how to maximize the strategy for long-term sustainability,
26 how innovation and research can spur the implementation of each
27 strategy, and an identification of all federal and state permits,
28 approvals, or entitlements that may be required in order to
29 implement the various components of the strategy.

30 (B) In consultation with the advisory committee outlined in
31 subparagraph (A) of paragraph (3) of subdivision (f), the
32 department shall develop and make recommendations for specific
33 actions that shall be taken to streamline those permits and
34 approvals.

35 (C) In carrying out this chapter, a public water system,
36 irrigation district, or wastewater service provider shall not be
37 required to implement a specific strategy or project.

38 (2) A study to support the water supply targets and to
39 recommend programs, policies, and facilities to achieve those

1 *targets with assumptions and estimates as outlined in Section*
2 *10004.6.*

3 *(3) An economic analysis of the costs and impacts to the state*
4 *if it has inadequate water supplies to meet current demand for all*
5 *sectors of the economy and environment in the next 10-, 20-, and*
6 *30-year scenarios. The analysis shall include a range of water*
7 *supply shortfall projections and water supply shortage scenarios*
8 *for urban and agricultural water suppliers using water suppliers'*
9 *existing planning documents, such as water shortage contingency*
10 *plans, urban water management plans, and agricultural water*
11 *management plans. The analysis also shall include the impacts of*
12 *possible rationing for various agricultural, industrial, commercial,*
13 *and residential customer classes.*

14 *(4) A report on the development of regional and local water*
15 *projects within each hydrologic region of the state to improve*
16 *water supplies to meet municipal, agricultural, and environmental*
17 *water needs and meet the water supply targets.*

18 *(5) A long-term financing plan as outlined in Section 10005.*

19 *(e) The declaration set forth in subdivision (b) does not*
20 *constitute approval for the construction of specific projects or*
21 *routes for transfer of water, or for financial assistance, by the state*
22 *without further legislative action, nor shall the declaration be*
23 *construed as a prohibition of the development of the water*
24 *resources of the state by any entity.*

25 *(f) (1) The department shall update The California Water Plan*
26 *on or before December 31, 2028, and every five years thereafter.*
27 *The department shall report the amendments, supplements, and*
28 *additions included in the updates of The California Water Plan,*
29 *together with a summary of the department's conclusions and*
30 *recommendations, to the Legislature, in compliance with Section*
31 *9795 of the Government Code, in the session in which the updated*
32 *plan is issued.*

33 *(2) The director shall provide an oral and written report to the*
34 *Legislature, in accordance with Section 9795 of the Government*
35 *Code, each year by May 1, regarding the progress made toward*
36 *meeting the water supply targets in an informational hearing of*
37 *the relevant committees. The report shall include the list of*
38 *recommended actions that require legislative intervention and*
39 *those that can be implemented by the department or other state*

1 agencies. The written report shall be posted on the department's
2 internet website.

3 (3) (A) The department, in consultation with the California
4 Water Commission, shall establish a stakeholder advisory
5 committee, comprised of representatives of agricultural and urban
6 water suppliers, local government, business, production
7 agriculture, tribes, environmental justice and environmental
8 interests, and other interested parties, to provide substantive
9 input to assist the department in updating The California Water
10 Plan, including the financing plan outlined in Section 10005. The
11 department shall consult with and consider recommendations from
12 the advisory committee in carrying out this section. The department
13 shall accept applications for the stakeholder advisory committee
14 before each update and ensure a balanced representation of
15 members. A member of the advisory committee shall not serve for
16 longer than the development of two updates. The advisory
17 committee shall meet a minimum of four times annually. The
18 department shall provide written notice of meetings of the advisory
19 committee to any interested person or entity that requests the
20 notice. The meetings shall be open to the public.

21 (B) The department also shall seek out and consider all relevant
22 information from retail and wholesale water agencies, agriculture,
23 business, tribes, environmental and environmental justice
24 communities, and any other communities potentially impacted by
25 the plan and from researchers and experts on climate science,
26 climate science solutions, water storage, water conveyance, and
27 environmental protection.

28 (4) In preparing any update of The California Water Plan, the
29 department shall conduct a series of public workshops to give
30 interested parties an opportunity to comment on the plan. The
31 department shall conduct a portion of these workshops in regions
32 of the state that have been impacted the most by drought and other
33 weather extremes, including, but not limited to, communities with
34 minority populations, communities with low-income populations,
35 or both.

36 (5) The department shall release a preliminary draft of The
37 California Water Plan, as updated, upon request, to interested
38 persons and entities throughout the state for their review and
39 comments. The department shall provide these persons and entities
40 an opportunity to present written or oral comments on the

1 *preliminary draft. The department also shall post the preliminary*
2 *draft on the department's internet website. The department shall*
3 *consider these comments in the preparation of the final publication*
4 *of The California Water Plan, as updated.*

5 *SEC. 4. Section 10004.5 of the Water Code is repealed.*

6 ~~10004.5. As part of the requirement of the department to update~~
7 ~~The California Water Plan pursuant to subdivision (b) of Section~~
8 ~~10004, the department shall include in the plan a discussion of~~
9 ~~various strategies, including, but not limited to, those relating to~~
10 ~~the development of new water storage facilities, water conservation,~~
11 ~~water recycling, desalination, conjunctive use, and water transfers~~
12 ~~that may be pursued in order to meet the future water needs of the~~
13 ~~state. The department shall also include a discussion of the potential~~
14 ~~for alternative water pricing policies to change current and~~
15 ~~projected uses. The department shall include in the plan a~~
16 ~~discussion of the potential advantages and disadvantages of each~~
17 ~~strategy and an identification of all federal and state permits,~~
18 ~~approvals, or entitlements that are anticipated to be required in~~
19 ~~order to implement the various components of the strategy.~~

20 *SEC. 5. Section 10004.6 of the Water Code is amended to read:*

21 ~~10004.6. (a) As part of updating The California Water Plan~~
22 ~~every five years pursuant to subdivision (b) of Section 10004, the~~
23 ~~department shall conduct a study to determine the amount of water~~
24 ~~needed to meet the state's future needs and to recommend~~
25 ~~programs, policies, and facilities to meet those needs.~~

26 ~~(b) The department shall consult with the advisory committee~~
27 ~~established pursuant to subdivision (b) of Section 10004 in carrying~~
28 ~~out this section.~~

29 ~~(c)~~

30 *10004.6. (a) On or before January 1, 2002, and one year prior*
31 *to before issuing each successive update to The California Water*
32 *Plan, the department shall release a preliminary draft of the*
33 *assumptions and other estimates upon which the study will be*
34 *based, to interested persons and entities throughout the state for*
35 *their review and comments. The department shall provide these*
36 *persons and entities an opportunity to present written or oral*
37 *comments on the preliminary draft. The department shall consider*
38 *these documents when adopting the final assumptions and estimates*
39 *for the study. For the purpose of carrying out this subdivision, the*

1 department shall release, at a minimum, assumptions and other
2 estimates relating to all of the following:

3 (1) Basin hydrology, including annual rainfall, estimated
4 unimpaired streamflow, depletions, and consumptive uses.

5 (2) Groundwater supplies, including estimates of sustainable
6 yield, supplies necessary to recover overdraft basins, and supplies
7 lost due to pollution and other groundwater contaminants.

8 (3) Current and projected land use patterns, including the mix
9 of residential, commercial, industrial, agricultural, and undeveloped
10 lands.

11 (4) Environmental water needs, including regulatory instream
12 flow requirements, nonregulated instream uses, and water needs
13 by wetlands, preserves, refuges, and other managed and unmanaged
14 natural resource lands.

15 (5) Current and projected population.

16 (6) Current and projected water use for all of the following:

17 (A) Interior uses in a single-family dwelling.

18 (B) Exterior uses in a single-family dwelling.

19 (C) All uses in a multifamily dwelling.

20 (D) Commercial uses.

21 (E) Industrial uses.

22 (F) Parks and open spaces.

23 (G) Agricultural water diversion and use.

24 (7) Evapotranspiration rates for major crop types, including
25 estimates of evaporative losses by irrigation practice and the extent
26 to which evaporation reduces transpiration.

27 (8) Current and projected adoption of urban and agricultural
28 conservation practices.

29 (9) Current and projected supplies of water provided by water
30 recycling and reuse.

31 ~~(d) The department shall include a discussion of the potential~~
32 ~~for alternative water pricing policies to change current and~~
33 ~~projected water uses identified pursuant to paragraph (6) of~~
34 ~~subdivision (e).~~

35 *(10) Climate change impacts by region.*

36 ~~(e) Nothing in this section requires or prohibits~~

37 *(b) This section does not require or prohibit the department*
38 *from updating any data necessary to update The California Water*
39 *Plan pursuant to subdivision (b) (f) of Section 10004.*

40 *SEC. 6. Section 10005 of the Water Code is repealed.*

1 ~~10005. (a) It is hereby declared that the people of the state~~
2 ~~have a primary interest in the orderly and coordinated control,~~
3 ~~protection, conservation, development, and utilization of the water~~
4 ~~resources of the state by all individuals and entities and that it is~~
5 ~~the policy of the state that The California Water Plan, with any~~
6 ~~necessary amendments, supplements, and additions to the plan, is~~
7 ~~accepted as the master plan which guides the orderly and~~
8 ~~coordinated control, protection, conservation, development,~~
9 ~~management and efficient utilization of the water resources of the~~
10 ~~state.~~

11 ~~(b) The declaration set forth in subdivision (a) does not~~
12 ~~constitute approval for the construction of specific projects or~~
13 ~~routes for transfer of water, or for financial assistance, by the state,~~
14 ~~without further legislative action, nor shall the declaration be~~
15 ~~construed as a prohibition of the development of the water~~
16 ~~resources of the state by any entity.~~

17 *SEC. 7. Section 10005 is added to the Water Code, to read:*

18 *10005. (a) The department shall develop a long-term financing*
19 *plan to meet the water supply targets and include the final*
20 *financing plan as part of each update.*

21 *(b) The financing plan shall do all of the following:*

22 *(1) Analyze a variety of financing mechanisms, including use*
23 *of general fund moneys, general obligation bond fund moneys,*
24 *and other potential sources of financing to meet the water supply*
25 *targets in The California Water Plan and provide necessary*
26 *investments to ensure a water resilient state.*

27 *(2) Consider the cost-effectiveness of various water supply*
28 *options and compare those costs to the economic costs of supply*
29 *shortages on various customer classes and the California economy.*

30 *(3) Recommend actions to be taken by the department, the board,*
31 *or other state agencies to streamline access to funding for projects*
32 *in all areas of the state that will help achieve the water supply*
33 *targets, including a coordinated application process across state*
34 *agencies, expedited funding guidelines, and an annual report*
35 *listing projects funded by state agencies with the resulting acre-feet*
36 *produced.*

37 *(c) The California Water Commission shall conduct a series of*
38 *public workshops to give interested parties an opportunity to*
39 *comment on the financing plan. The commission shall conduct a*
40 *portion of these workshops in regions of the state that have been*

1 *impacted the most by drought or other weather extremes, including,*
2 *but not limited to, communities with minority populations,*
3 *communities with low-income populations, or both.*

4 *(d) The financing plan shall recognize that public water systems,*
5 *irrigation districts, and wastewater service providers utilize*
6 *different rate structures and avoid mandates for revising those*
7 *rates or a specific level of investment from public water systems,*
8 *irrigation districts, or wastewater service providers.*

9 *SEC. 8. Section 10013 of the Water Code is repealed.*

10 ~~10013. The department, as a part of the preparation of the~~
11 ~~department's Bulletin 160-03, shall include in the California Water~~
12 ~~Plan a report on the development of regional and local water~~
13 ~~projects within each hydrologic region of the state, as described~~
14 ~~in the department's Bulletin 160-98, to improve water supplies to~~
15 ~~meet municipal, agricultural, and environmental water needs and~~
16 ~~minimize the need to import water from other hydrologic regions.~~
17 ~~The report shall include, but is not limited to, regional and local~~
18 ~~water projects that use technologies for desalting brackish~~
19 ~~groundwater and ocean water, reclaiming water for use within the~~
20 ~~community generating the water to be reclaimed, the construction~~
21 ~~of improved potable water treatment facilities so that water from~~
22 ~~sources determined to be unsuitable can be used, and the~~
23 ~~construction of dual water systems and brine lines, particularly in~~
24 ~~connection with new developments and when replacing water~~
25 ~~pipng in developed or redeveloped areas.~~

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

28 ~~(a) To thrive as a state, California needs a reliable supply of~~
29 ~~water for urban, agricultural, and environmental uses that is~~
30 ~~completely resilient to climate change.~~

31 ~~(b) California's existing water level is highly reliant on capturing~~
32 ~~the snow melt on an annual basis. That captured water is stored in~~
33 ~~lakes, reservoirs, and groundwater basins, and is then transported~~
34 ~~around the state for environmental, residential, business, and~~
35 ~~agricultural use when needed.~~

36 ~~(c) California has the most intricate and elaborate system of~~
37 ~~water conveyance in the world.~~

38 ~~(d) The volume of water used by people in California for~~
39 ~~agriculture, urban, and environmental purposes ranges from~~
40 ~~60,000,000 to 90,000,000 acre-feet per year.~~

1 ~~(e) Per-capita water use has declined over time, thanks to~~
2 ~~water-saving indoor plumbing fixtures and appliances, better leak~~
3 ~~detection, development of potable and nonpotable water reuse~~
4 ~~projects, and efforts to reduce outdoor water use.~~

5 ~~(f) Over the last two years, scientists and water managers have~~
6 ~~been alarmed by the accelerating impacts of the warming climate~~
7 ~~on our water supply.~~

8 ~~(g) Hotter and drier weather is estimated to diminish our existing~~
9 ~~water supply by 10 percent to 20 percent.~~

10 ~~(h) A loss of 10 percent of our existing water supply due to~~
11 ~~hotter and drier conditions could mean the disappearance of about~~
12 ~~6,000,000 to 9,000,000 acre-feet of water.~~

13 ~~(i) For comparison's sake, California's largest reservoir, the~~
14 ~~Shasta Reservoir, holds 4,500,000 acre-feet of water.~~

15 ~~(j) Many rivers, lakes, and estuaries are being impacted by~~
16 ~~declining water quality, including increases in harmful algae~~
17 ~~blooms.~~

18 ~~(k) The California central valley has a groundwater overdraft~~
19 ~~of 2,000,000 to 3,000,000 acre-feet of water.~~

20 ~~(l) Following more than two decades of "megadrought" in the~~
21 ~~Colorado River Basin, reservoir levels are so low that near-term~~
22 ~~supply cuts are likely.~~

23 ~~(m) California's precipitation is changing from seasonal snow~~
24 ~~in the Sierra Nevada Mountains to periods of substantial rainfall,~~
25 ~~including atmospheric rivers.~~

26 ~~(n) The shift to drier dry years and wetter wet years makes it~~
27 ~~imperative that the State of California develop comprehensive~~
28 ~~wet-year strategies that take full advantage of times of abundance,~~
29 ~~while also ensuring public safety from floods.~~

30 ~~(o) It is imperative that California capture more water from~~
31 ~~atmospheric rivers and other storms that occur during dry years to~~
32 ~~help fill groundwater basins and surface storage.~~

33 ~~(p) California is the nation's agricultural powerhouse, accounting~~
34 ~~for 12 percent of the nation's agricultural production in 2021,~~
35 ~~including more than 70 percent of the nation's fruits and nuts.~~

36 ~~(q) The agriculture sector produces annual revenues of more~~
37 ~~than \$50 billion, employs more than 420,000 people, and supports~~
38 ~~large food and beverage processing industries.~~

39 ~~(r) According to the Department of Water Resources, there is~~
40 ~~the potential for more than 13,000,000 acre-feet of groundwater~~

1 recharge annually, with more than 2,500,000 acre-feet being
2 possible using existing infrastructure.

3 (s) The Department of Water Resources describes a statewide
4 capacity in groundwater basins in the range of 1,000,000,000
5 acre-feet or approximately 20 times the total surface water storage
6 capacity statewide.

7 (t) California is home to cutting-edge, job-creating industries
8 such as those in Silicon Valley and southern California's
9 biotechnology industry.

10 (u) It is essential for our economy, environment, and well-being
11 that California increases the resilience of the state's water supplies.

12 (v) California must make a historic change in how water is
13 provided for environmental, residential, business, and agricultural
14 uses.

15 SEC. 2. It is the intent of the Legislature to enact future
16 legislation that modernizes the California Water Plan, including
17 the establishment of long-term water supply targets.

ASSEMBLY BILL

No. 422

**Introduced by Assembly Member Alanis
(Coauthor: Assembly Member Gallagher)**

February 2, 2023

An act to add Section 12805.8 to the Government Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 422, as introduced, Alanis. Natural Resources Agency: statewide water storage: tracking.

Existing law establishes the Natural Resources Agency, composed of departments, boards, conservancies, and commissions responsible for the restoration, protection, and management of the state's natural and cultural resources. Existing law establishes in the agency the Department of Water Resources, which manages and undertakes planning with regard to water resources in the state.

This bill would require the agency, on or before June 1, 2024, to post on its publicly available internet website information tracking the progress to increase statewide water storage, and to keep that information updated.

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 12805.8 is added to the Government
2 Code, to read:

1 12805.8. On or before June 1, 2024, the Natural Resources
2 Agency shall post on its publicly available internet website
3 information tracking the progress to increase statewide water
4 storage, and keep that information updated.

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ASSEMBLY BILL

No. 557

Introduced by Assembly Member Hart

February 8, 2023

An act to amend and repeal Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 557, as introduced, Hart. Open meetings: local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a

declared state of emergency is in effect, or in other situations related to public health, as specified. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, existing law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Existing law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time.

This bill would extend the above-described abbreviated teleconferencing provisions when a declared state of emergency is in effect, or in other situations related to public health, as specified, indefinitely. The bill would also extend the period for a legislative body to make the above-described findings related to a continuing state of emergency and social distancing to not later than 45 days after the first teleconferenced meeting, and every 45 days thereafter, in order to continue to meet under the abbreviated teleconferencing procedures.

The bill would additionally make nonsubstantive changes to those provisions and correct erroneous cross references .

(2) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

1 SECTION 1. Section 54953 of the Government Code, as
2 amended by Section 1 of Chapter 285 of the Statutes of 2022, is
3 amended to read:

4 54953. (a) All meetings of the legislative body of a local
5 agency shall be open and public, and all persons shall be permitted
6 to attend any meeting of the legislative body of a local agency,
7 except as otherwise provided in this chapter.

8 (b) (1) Notwithstanding any other provision of law, the
9 legislative body of a local agency may use teleconferencing for
10 the benefit of the public and the legislative body of a local agency
11 in connection with any meeting or proceeding authorized by law.
12 The teleconferenced meeting or proceeding shall comply with all
13 otherwise applicable requirements of this chapter and all otherwise
14 applicable provisions of law relating to a specific type of meeting
15 or proceeding.

16 (2) Teleconferencing, as authorized by this section, may be used
17 for all purposes in connection with any meeting within the subject
18 matter jurisdiction of the legislative body. If the legislative body
19 of a local agency elects to use teleconferencing, the legislative
20 body of a local agency shall comply with all of the following:

21 (A) All votes taken during a teleconferenced meeting shall be
22 by rollcall.

23 (B) The teleconferenced meetings shall be conducted in a
24 manner that protects the statutory and constitutional rights of the
25 parties or the public appearing before the legislative body of a
26 local agency.

27 (C) The legislative body shall give notice of the meeting and
28 post agendas as otherwise required by this chapter.

29 (D) The legislative body shall allow members of the public to
30 access the meeting and the agenda shall provide an opportunity
31 for members of the public to address the legislative body directly
32 pursuant to Section 54954.3.

33 (3) If the legislative body of a local agency elects to use
34 teleconferencing, it shall post agendas at all teleconference
35 locations. Each teleconference location shall be identified in the
36 notice and agenda of the meeting or proceeding, and each
37 teleconference location shall be accessible to the public. During
38 the teleconference, at least a quorum of the members of the

1 legislative body shall participate from locations within the
2 boundaries of the territory over which the local agency exercises
3 jurisdiction, except as provided in subdivisions (d) and (e).

4 (c) (1) No legislative body shall take action by secret ballot,
5 whether preliminary or final.

6 (2) The legislative body of a local agency shall publicly report
7 any action taken and the vote or abstention on that action of each
8 member present for the action.

9 (3) Prior to taking final action, the legislative body shall orally
10 report a summary of a recommendation for a final action on the
11 salaries, salary schedules, or compensation paid in the form of
12 fringe benefits of a local agency executive, as defined in
13 subdivision (d) of Section 3511.1, during the open meeting in
14 which the final action is to be taken. This paragraph shall not affect
15 the public's right under the California Public Records Act (Division
16 10 (commencing with Section 7920.000) of Title 1) to inspect or
17 copy records created or received in the process of developing the
18 recommendation.

19 (d) (1) Notwithstanding the provisions relating to a quorum in
20 paragraph (3) of subdivision (b), if a health authority conducts a
21 teleconference meeting, members who are outside the jurisdiction
22 of the authority may be counted toward the establishment of a
23 quorum when participating in the teleconference if at least 50
24 percent of the number of members that would establish a quorum
25 are present within the boundaries of the territory over which the
26 authority exercises jurisdiction, and the health authority provides
27 a teleconference number, and associated access codes, if any, that
28 allows any person to call in to participate in the meeting and the
29 number and access codes are identified in the notice and agenda
30 of the meeting.

31 (2) Nothing in this subdivision shall be construed as
32 discouraging health authority members from regularly meeting at
33 a common physical site within the jurisdiction of the authority or
34 from using teleconference locations within or near the jurisdiction
35 of the authority. A teleconference meeting for which a quorum is
36 established pursuant to this subdivision shall be subject to all other
37 requirements of this section.

38 (3) For purposes of this subdivision, a health authority means
39 any entity created pursuant to Sections 14018.7, 14087.31,
40 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare

1 and Institutions Code, any joint powers authority created pursuant
2 to Article 1 (commencing with Section 6500) of Chapter 5 of
3 Division 7 for the purpose of contracting pursuant to Section
4 14087.3 of the Welfare and Institutions Code, and any advisory
5 committee to a county-sponsored health plan licensed pursuant to
6 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
7 Health and Safety Code if the advisory committee has 12 or more
8 members.

9 (e) (1) The legislative body of a local agency may use
10 teleconferencing without complying with the requirements of
11 paragraph (3) of subdivision (b) if the legislative body complies
12 with the requirements of paragraph (2) of this subdivision in any
13 of the following circumstances:

14 (A) The legislative body holds a meeting during a proclaimed
15 state of emergency, and state or local officials have imposed or
16 recommended measures to promote social distancing.

17 (B) The legislative body holds a meeting during a proclaimed
18 state of emergency for the purpose of determining, by majority
19 vote, whether as a result of the emergency, meeting in person
20 would present imminent risks to the health or safety of attendees.

21 (C) The legislative body holds a meeting during a proclaimed
22 state of emergency and has determined, by majority vote, pursuant
23 to subparagraph (B), that, as a result of the emergency, meeting
24 in person would present imminent risks to the health or safety of
25 attendees.

26 (2) A legislative body that holds a meeting pursuant to this
27 subdivision shall do all of the following:

28 (A) In each instance in which notice of the time of the
29 teleconferenced meeting is otherwise given or the agenda for the
30 meeting is otherwise posted, the legislative body shall also give
31 notice of the means by which members of the public may access
32 the meeting and offer public comment. The agenda shall identify
33 and include an opportunity for all persons to attend via a call-in
34 option or an internet-based service option.

35 (B) In the event of a disruption that prevents the legislative body
36 from broadcasting the meeting to members of the public using the
37 call-in option or internet-based service option, or in the event of
38 a disruption within the local agency's control that prevents
39 members of the public from offering public comments using the
40 call-in option or internet-based service option, the legislative body

1 shall take no further action on items appearing on the meeting
2 agenda until public access to the meeting via the call-in option or
3 internet-based service option is restored. Actions taken on agenda
4 items during a disruption that prevents the legislative body from
5 broadcasting the meeting may be challenged pursuant to Section
6 54960.1.

7 (C) The legislative body shall not require public comments to
8 be submitted in advance of the meeting and must provide an
9 opportunity for the public to address the legislative body and offer
10 comment in real time.

11 (D) Notwithstanding Section 54953.3, an individual desiring to
12 provide public comment through the use of an internet website, or
13 other online platform, not under the control of the local legislative
14 body, that requires registration to log in to a teleconference may
15 be required to register as required by the third-party internet
16 website or online platform to participate.

17 (E) (i) A legislative body that provides a timed public comment
18 period for each agenda item shall not close the public comment
19 period for the agenda item, or the opportunity to register, pursuant
20 to subparagraph ~~(F)~~, (D), to provide public comment until that
21 timed public comment period has elapsed.

22 (ii) A legislative body that does not provide a timed public
23 comment period, but takes public comment separately on each
24 agenda item, shall allow a reasonable amount of time per agenda
25 item to allow public members the opportunity to provide public
26 comment, including time for members of the public to register
27 pursuant to subparagraph ~~(F)~~, (D), or otherwise be recognized for
28 the purpose of providing public comment.

29 (iii) A legislative body that provides a timed general public
30 comment period that does not correspond to a specific agenda item
31 shall not close the public comment period or the opportunity to
32 register, pursuant to subparagraph ~~(F)~~, (D), until the timed general
33 public comment period has elapsed.

34 (3) If a state of emergency remains active, or state or local
35 officials have imposed or recommended measures to promote
36 social distancing, in order to continue to teleconference without
37 compliance with paragraph (3) of subdivision (b), the legislative
38 body shall, not later than ~~30~~ 45 days after teleconferencing for the
39 first time pursuant to subparagraph (A), (B), or (C) of paragraph

1 (1), and every ~~30~~ 45 days thereafter, make the following findings
2 by majority vote:

3 (A) The legislative body has reconsidered the circumstances of
4 the state of emergency.

5 (B) Any of the following circumstances exist:

6 (i) The state of emergency continues to directly impact the
7 ability of the members to meet safely in person.

8 (ii) State or local officials continue to impose or recommend
9 measures to promote social distancing.

10 (4) This subdivision shall not be construed to require the
11 legislative body to provide a physical location from which the
12 public may attend or comment.

13 (f) (1) The legislative body of a local agency may use
14 teleconferencing without complying with paragraph (3) of
15 subdivision (b) if, during the teleconference meeting, at least a
16 quorum of the members of the legislative body participates in
17 person from a singular physical location clearly identified on the
18 agenda, which location shall be open to the public and situated
19 within the boundaries of the territory over which the local agency
20 exercises jurisdiction and the legislative body complies with all
21 of the following:

22 (A) The legislative body shall provide at least one of the
23 following as a means by which the public may remotely hear and
24 visually observe the meeting, and remotely address the legislative
25 body:

26 (i) A two-way audiovisual platform.

27 (ii) A two-way telephonic service and a live webcasting of the
28 meeting.

29 (B) In each instance in which notice of the time of the
30 teleconferenced meeting is otherwise given or the agenda for the
31 meeting is otherwise posted, the legislative body shall also give
32 notice of the means by which members of the public may access
33 the meeting and offer public comment.

34 (C) The agenda shall identify and include an opportunity for all
35 persons to attend and address the legislative body directly pursuant
36 to Section 54954.3 via a call-in option, via an internet-based service
37 option, and at the in-person location of the meeting.

38 (D) In the event of a disruption that prevents the legislative body
39 from broadcasting the meeting to members of the public using the
40 call-in option or internet-based service option, or in the event of

1 a disruption within the local agency's control that prevents
2 members of the public from offering public comments using the
3 call-in option or internet-based service option, the legislative body
4 shall take no further action on items appearing on the meeting
5 agenda until public access to the meeting via the call-in option or
6 internet-based service option is restored. Actions taken on agenda
7 items during a disruption that prevents the legislative body from
8 broadcasting the meeting may be challenged pursuant to Section
9 54960.1.

10 (E) The legislative body shall not require public comments to
11 be submitted in advance of the meeting and must provide an
12 opportunity for the public to address the legislative body and offer
13 comment in real time.

14 (F) Notwithstanding Section 54953.3, an individual desiring to
15 provide public comment through the use of an internet website, or
16 other online platform, not under the control of the local legislative
17 body, that requires registration to log in to a teleconference may
18 be required to register as required by the third-party internet
19 website or online platform to participate.

20 (2) A member of the legislative body shall only participate in
21 the meeting remotely pursuant to this subdivision, if all of the
22 following requirements are met:

23 (A) One of the following circumstances applies:

24 (i) The member notifies the legislative body at the earliest
25 opportunity possible, including at the start of a regular meeting,
26 of their need to participate remotely for just cause, including a
27 general description of the circumstances relating to their need to
28 appear remotely at the given meeting. The provisions of this clause
29 shall not be used by any member of the legislative body for more
30 than two meetings per calendar year.

31 (ii) The member requests the legislative body to allow them to
32 participate in the meeting remotely due to emergency circumstances
33 and the legislative body takes action to approve the request. The
34 legislative body shall request a general description of the
35 circumstances relating to their need to appear remotely at the given
36 meeting. A general description of an item generally need not exceed
37 20 words and shall not require the member to disclose any medical
38 diagnosis or disability, or any personal medical information that
39 is already exempt under existing law, such as the Confidentiality
40 of Medical Information Act (Chapter 1 (commencing with Section

56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

1 (i) (1) Nothing in this section shall prohibit a legislative body
2 from providing the public with additional teleconference locations.

3 (2) Nothing in this section shall prohibit a legislative body from
4 providing ~~members of~~ the public with additional physical locations
5 in which the public may observe and address the legislative body
6 by electronic means.

7 (j) For the purposes of this section, the following definitions
8 shall apply:

9 (1) “Emergency circumstances” means a physical or family
10 medical emergency that prevents a member from attending in
11 person.

12 (2) “Just cause” means any of the following:

13 (A) A childcare or caregiving need of a child, parent,
14 grandparent, grandchild, sibling, spouse, or domestic partner that
15 requires them to participate remotely. “Child,” “parent,”
16 “grandparent,” “grandchild,” and “sibling” have the same meaning
17 as those terms do in Section 12945.2.

18 (B) A contagious illness that prevents a member from attending
19 in person.

20 (C) A need related to a physical or mental disability as defined
21 in Sections 12926 and 12926.1 not otherwise accommodated by
22 subdivision (g).

23 (D) Travel while on official business of the legislative body or
24 another state or local agency.

25 (3) “Remote location” means a location from which a member
26 of a legislative body participates in a meeting pursuant to
27 subdivision (f), other than any physical meeting location designated
28 in the notice of the meeting. Remote locations need not be
29 accessible to the public.

30 (4) “Remote participation” means participation in a meeting by
31 teleconference at a location other than any physical meeting
32 location designated in the notice of the meeting. Watching or
33 listening to a meeting via webcasting or another similar electronic
34 medium that does not permit members to interactively hear,
35 discuss, or deliberate on matters, does not constitute remote
36 participation.

37 (5) “State of emergency” means a state of emergency proclaimed
38 pursuant to Section 8625 of the California Emergency Services
39 Act (Article 1 (commencing with Section 8550) of Chapter 7 of
40 Division 1 of Title 2).

1 (6) “Teleconference” means a meeting of a legislative body,
2 the members of which are in different locations, connected by
3 electronic means, through either audio or video, or both.

4 (7) “Two-way audiovisual platform” means an online platform
5 that provides participants with the ability to participate in a meeting
6 via both an interactive video conference and a two-way telephonic
7 function.

8 (8) “Two-way telephonic service” means a telephone service
9 that does not require internet access, is not provided as part of a
10 two-way audiovisual platform, and allows participants to dial a
11 telephone number to listen and verbally participate.

12 (9) “Webcasting” means a streaming video broadcast online or
13 on television, using streaming media technology to distribute a
14 single content source to many simultaneous listeners and viewers.

15 (k) This section shall remain in effect only until January 1, ~~2024~~,
16 ~~2026~~, and as of that date is repealed.

17 SEC. 2. Section 54953 of the Government Code, as amended
18 by Section 2 of Chapter 285 of the Statutes of 2022, is amended
19 to read:

20 54953. (a) All meetings of the legislative body of a local
21 agency shall be open and public, and all persons shall be permitted
22 to attend any meeting of the legislative body of a local agency,
23 except as otherwise provided in this chapter.

24 (b) (1) Notwithstanding any other provision of law, the
25 legislative body of a local agency may use teleconferencing for
26 the benefit of the public and the legislative body of a local agency
27 in connection with any meeting or proceeding authorized by law.
28 The teleconferenced meeting or proceeding shall comply with all
29 otherwise applicable requirements of this chapter and all otherwise
30 applicable provisions of law relating to a specific type of meeting
31 or proceeding.

32 (2) Teleconferencing, as authorized by this section, may be used
33 for all purposes in connection with any meeting within the subject
34 matter jurisdiction of the legislative body. If the legislative body
35 of a local agency elects to use teleconferencing, the legislative
36 body of a local agency shall comply with all of the following:

37 (A) All votes taken during a teleconferenced meeting shall be
38 by rollcall.

39 (B) The teleconferenced meetings shall be conducted in a
40 manner that protects the statutory and constitutional rights of the

1 parties or the public appearing before the legislative body of a
2 local agency.

3 (C) The legislative body shall give notice of the meeting and
4 post agendas as otherwise required by this chapter.

5 (D) The legislative body shall allow members of the public to
6 access the meeting and the agenda shall provide an opportunity
7 for members of the public to address the legislative body directly
8 pursuant to Section 54954.3.

9 (3) If the legislative body of a local agency elects to use
10 teleconferencing, it shall post agendas at all teleconference
11 locations. Each teleconference location shall be identified in the
12 notice and agenda of the meeting or proceeding, and each
13 teleconference location shall be accessible to the public. During
14 the teleconference, at least a quorum of the members of the
15 legislative body shall participate from locations within the
16 boundaries of the territory over which the local agency exercises
17 jurisdiction, except as provided in ~~subdivision (d)~~. *subdivisions*
18 *(d) and (e)*.

19 (c) (1) No legislative body shall take action by secret ballot,
20 whether preliminary or final.

21 (2) The legislative body of a local agency shall publicly report
22 any action taken and the vote or abstention on that action of each
23 member present for the action.

24 (3) Prior to taking final action, the legislative body shall orally
25 report a summary of a recommendation for a final action on the
26 salaries, salary schedules, or compensation paid in the form of
27 fringe benefits of a local agency executive, as defined in
28 subdivision (d) of Section 3511.1, during the open meeting in
29 which the final action is to be taken. This paragraph shall not affect
30 the public's right under the California Public Records Act (Division
31 10 (commencing with Section 7920.000) of Title 1) to inspect or
32 copy records created or received in the process of developing the
33 recommendation.

34 (d) (1) Notwithstanding the provisions relating to a quorum in
35 paragraph (3) of subdivision (b), if a health authority conducts a
36 teleconference meeting, members who are outside the jurisdiction
37 of the authority may be counted toward the establishment of a
38 quorum when participating in the teleconference if at least 50
39 percent of the number of members that would establish a quorum
40 are present within the boundaries of the territory over which the

1 authority exercises jurisdiction, and the health authority provides
2 a teleconference number, and associated access codes, if any, that
3 allows any person to call in to participate in the meeting and the
4 number and access codes are identified in the notice and agenda
5 of the meeting.

6 (2) Nothing in this subdivision shall be construed as
7 discouraging health authority members from regularly meeting at
8 a common physical site within the jurisdiction of the authority or
9 from using teleconference locations within or near the jurisdiction
10 of the authority. A teleconference meeting for which a quorum is
11 established pursuant to this subdivision shall be subject to all other
12 requirements of this section.

13 (3) For purposes of this subdivision, a health authority means
14 any entity created pursuant to Sections 14018.7, 14087.31,
15 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
16 and Institutions Code, any joint powers authority created pursuant
17 to Article 1 (commencing with Section 6500) of Chapter 5 of
18 Division 7 for the purpose of contracting pursuant to Section
19 14087.3 of the Welfare and Institutions Code, and any advisory
20 committee to a county-sponsored health plan licensed pursuant to
21 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
22 Health and Safety Code if the advisory committee has 12 or more
23 members.

24 (e) (1) The legislative body of a local agency may use
25 teleconferencing without complying with *the requirements of*
26 paragraph (3) of subdivision (b) if, ~~during the teleconference~~
27 ~~meeting, at least a quorum of the members of the legislative body~~
28 ~~participates in person from a singular physical location clearly~~
29 ~~identified on the agenda, which location shall be open to the public~~
30 ~~and situated within the boundaries of the territory over which the~~
31 ~~local agency exercises jurisdiction and the legislative body~~
32 ~~complies with all of the following:~~

33 ~~(A) The legislative body shall provide at least one of the~~
34 ~~following as a means by which the public may remotely hear and~~
35 ~~visually observe the meeting, and remotely address the legislative~~
36 ~~body:~~

37 ~~(i) A two-way audiovisual platform.~~

38 ~~(ii) A two-way telephonic service and a live webcasting of the~~
39 ~~meeting.~~

1 if the legislative body complies with the requirements of
2 paragraph (2) of this subdivision in any of the following
3 circumstances:

4 (A) The legislative body holds a meeting during a proclaimed
5 state of emergency, and state or local officials have imposed or
6 recommended measures to promote social distancing.

7 (B) The legislative body holds a meeting during a proclaimed
8 state of emergency for the purpose of determining, by majority
9 vote, whether as a result of the emergency, meeting in person
10 would present imminent risks to the health or safety of attendees.

11 (C) The legislative body holds a meeting during a proclaimed
12 state of emergency and has determined, by majority vote, pursuant
13 to subparagraph (B), that, as a result of the emergency, meeting
14 in person would present imminent risks to the health or safety of
15 attendees.

16 (2) A legislative body that holds a meeting pursuant to this
17 subdivision shall do all of the following:

18 ~~(B)~~

19 (A) In each instance in which notice of the time of the
20 teleconferenced meeting is otherwise given or the agenda for the
21 meeting is otherwise posted, the legislative body shall also give
22 notice of the means by which members of the public may access
23 the meeting and offer public comment. *The agenda shall identify*
24 *and include an opportunity for all persons to attend via a call-in*
25 *option or an internet-based service option.*

26 ~~(C) The agenda shall identify and include an opportunity for all~~
27 ~~persons to attend and address the legislative body directly pursuant~~
28 ~~to Section 54954.3 via a call-in option, via an internet-based service~~
29 ~~option, and at the in-person location of the meeting.~~

30 ~~(D)~~

31 (B) In the event of a disruption that prevents the legislative body
32 from broadcasting the meeting to members of the public using the
33 call-in option or internet-based service option, or in the event of
34 a disruption within the local agency's control that prevents
35 members of the public from offering public comments using the
36 call-in option or internet-based service option, the legislative body
37 shall take no further action on items appearing on the meeting
38 agenda until public access to the meeting via the call-in option or
39 internet-based service option is restored. Actions taken on agenda
40 items during a disruption that prevents the legislative body from

1 broadcasting the meeting may be challenged pursuant to Section
2 54960.1.

3 ~~(E)~~

4 (C) The legislative body shall not require public comments to
5 be submitted in advance of the meeting and must provide an
6 opportunity for the public to address the legislative body and offer
7 comment in real time.

8 ~~(F)~~

9 (D) Notwithstanding Section 54953.3, an individual desiring to
10 provide public comment through the use of an internet website, or
11 other online platform, not under the control of the local legislative
12 body, that requires registration to log in to a teleconference may
13 be required to register as required by the third-party internet
14 website or online platform to participate.

15 ~~(2) A member of the legislative body shall only participate in~~
16 ~~the meeting remotely pursuant to this subdivision, if all of the~~
17 ~~following requirements are met:~~

18 ~~(A) One of the following circumstances applies:~~

19 ~~(i) The member notifies the legislative body at the earliest~~
20 ~~opportunity possible, including at the start of a regular meeting,~~
21 ~~of their need to participate remotely for just cause, including a~~
22 ~~general description of the circumstances relating to their need to~~
23 ~~appear remotely at the given meeting. The provisions of this clause~~
24 ~~shall not be used by any member of the legislative body for more~~
25 ~~than two meetings per calendar year.~~

26 ~~(ii) The member requests the legislative body to allow them to~~
27 ~~participate in the meeting remotely due to emergency circumstances~~
28 ~~and the legislative body takes action to approve the request. The~~
29 ~~legislative body shall request a general description of the~~
30 ~~circumstances relating to their need to appear remotely at the given~~
31 ~~meeting. A general description of an item generally need not exceed~~
32 ~~20 words and shall not require the member to disclose any medical~~
33 ~~diagnosis or disability, or any personal medical information that~~
34 ~~is already exempt under existing law, such as the Confidentiality~~
35 ~~of Medical Information Act (Chapter 1 (commencing with Section~~
36 ~~56) of Part 2.6 of Division 1 of the Civil Code). For the purposes~~
37 ~~of this clause, the following requirements apply:~~

38 ~~(I) A member shall make a request to participate remotely at a~~
39 ~~meeting pursuant to this clause as soon as possible. The member~~

1 shall make a separate request for each meeting in which they seek
2 to participate remotely.

3 (II) The legislative body may take action on a request to
4 participate remotely at the earliest opportunity. If the request does
5 not allow sufficient time to place proposed action on such a request
6 on the posted agenda for the meeting for which the request is made,
7 the legislative body may take action at the beginning of the meeting
8 in accordance with paragraph (4) of subdivision (b) of Section
9 54954.2.

10 (B) The member shall publicly disclose at the meeting before
11 any action is taken whether any other individuals 18 years of age
12 or older are present in the room at the remote location with the
13 member, and the general nature of the member's relationship with
14 any such individuals.

15 (C) The member shall participate through both audio and visual
16 technology.

17 (3) The provisions of this subdivision shall not serve as a means
18 for any member of a legislative body to participate in meetings of
19 the legislative body solely by teleconference from a remote location
20 for a period of more than three consecutive months or 20 percent
21 of the regular meetings for the local agency within a calendar year,
22 or more than two meetings if the legislative body regularly meets
23 fewer than 10 times per calendar year.

24 (E) (i) *A legislative body that provides a timed public comment*
25 *period for each agenda item shall not close the public comment*
26 *period for the agenda item, or the opportunity to register, pursuant*
27 *to subparagraph (D), to provide public comment until that timed*
28 *public comment period has elapsed.*

29 (ii) *A legislative body that does not provide a timed public*
30 *comment period, but takes public comment separately on each*
31 *agenda item, shall allow a reasonable amount of time per agenda*
32 *item to allow public members the opportunity to provide public*
33 *comment, including time for members of the public to register*
34 *pursuant to subparagraph (D), or otherwise be recognized for the*
35 *purpose of providing public comment.*

36 (iii) *A legislative body that provides a timed general public*
37 *comment period that does not correspond to a specific agenda*
38 *item shall not close the public comment period or the opportunity*
39 *to register, pursuant to subparagraph (D), until the timed general*
40 *public comment period has elapsed.*

1 (3) *If a state of emergency remains active, or state or local*
2 *officials have imposed or recommended measures to promote*
3 *social distancing, in order to continue to teleconference without*
4 *compliance with paragraph (3) of subdivision (b), the legislative*
5 *body shall, not later than 45 days after teleconferencing for the*
6 *first time pursuant to subparagraph (A), (B), or (C) of paragraph*
7 *(1), and every 45 days thereafter, make the following findings by*
8 *majority vote:*

9 (A) *The legislative body has reconsidered the circumstances of*
10 *the state of emergency.*

11 (B) *Any of the following circumstances exist:*

12 (i) *The state of emergency continues to directly impact the ability*
13 *of the members to meet safely in person.*

14 (ii) *State or local officials continue to impose or recommend*
15 *measures to promote social distancing.*

16 (4) *This subdivision shall not be construed to require the*
17 *legislative body to provide a physical location from which the*
18 *public may attend or comment.*

19 (f) *The legislative body shall have and implement a procedure*
20 *for receiving and swiftly resolving requests for reasonable*
21 *accommodation for individuals with disabilities, consistent with*
22 *the federal Americans with Disabilities Act of 1990 (42 U.S.C.*
23 *Sec. 12132), and resolving any doubt in favor of accessibility. In*
24 *each instance in which notice of the time of the meeting is*
25 *otherwise given or the agenda for the meeting is otherwise posted,*
26 *the legislative body shall also give notice of the procedure for*
27 *receiving and resolving requests for accommodation.*

28 (g) *The legislative body shall conduct meetings subject to this*
29 *chapter consistent with applicable civil rights and*
30 *nondiscrimination laws.*

31 (h) (1) *Nothing in this section shall prohibit a legislative body*
32 *from providing the public with additional teleconference locations.*

33 (2) *Nothing in this section shall prohibit a legislative body from*
34 *providing ~~members of~~ the public with additional physical locations*
35 *in which the public may observe and address the legislative body*
36 *by electronic means.*

37 (i) *For the purposes of this section, the following definitions*
38 *shall apply:*

1 ~~(1) “Emergency circumstances” means a physical or family~~
2 ~~medical emergency that prevents a member from attending in~~
3 ~~person.~~

4 ~~(2) “Just cause” means any of the following:~~

5 ~~(A) A childcare or caregiving need of a child, parent,~~
6 ~~grandparent, grandchild, sibling, spouse, or domestic partner that~~
7 ~~requires them to participate remotely. “Child,” “parent,”~~
8 ~~“grandparent,” “grandchild,” and “sibling” have the same meaning~~
9 ~~as those terms do in Section 12945.2.~~

10 ~~(B) A contagious illness that prevents a member from attending~~
11 ~~in person.~~

12 ~~(C) A need related to a physical or mental disability as defined~~
13 ~~in Sections 12926 and 12926.1 not otherwise accommodated by~~
14 ~~subdivision (f).~~

15 ~~(D) Travel while on official business of the legislative body or~~
16 ~~another state or local agency.~~

17 ~~(3) “Remote location” means a location from which a member~~
18 ~~of a legislative body participates in a meeting pursuant to~~
19 ~~subdivision (e), other than any physical meeting location designated~~
20 ~~in the notice of the meeting. Remote locations need not be~~
21 ~~accessible to the public.~~

22 ~~(4) “Remote participation” means participation in a meeting by~~
23 ~~teleconference at a location other than any physical meeting~~
24 ~~location designated in the notice of the meeting. Watching or~~
25 ~~listening to a meeting via webcasting or another similar electronic~~
26 ~~medium that does not permit members to interactively hear,~~
27 ~~discuss, or deliberate on matters, does not constitute remote~~
28 ~~participation.~~

29 ~~(1) “State of emergency” means a state of emergency~~
30 ~~proclaimed pursuant to Section 8625 of the California Emergency~~
31 ~~Services Act (Article 1 (commencing with Section 8550) of Chapter~~
32 ~~7 of Division 1 of Title 2).~~

33 ~~(5)~~

34 ~~(2) “Teleconference” means a meeting of a legislative body,~~
35 ~~the members of which are in different locations, connected by~~
36 ~~electronic means, through either audio or video, or both.~~

37 ~~(6) “Two-way audiovisual platform” means an online platform~~
38 ~~that provides participants with the ability to participate in a meeting~~
39 ~~via both an interactive video conference and a two-way telephonic~~
40 ~~function.~~

1 ~~(7) “Two-way telephonic service” means a telephone service~~
2 ~~that does not require internet access, is not provided as part of a~~
3 ~~two-way audiovisual platform, and allows participants to dial a~~
4 ~~telephone number to listen and verbally participate.~~

5 ~~(8) “Webeasting” means a streaming video broadcast online or~~
6 ~~on television, using streaming media technology to distribute a~~
7 ~~single content source to many simultaneous listeners and viewers.~~

8 ~~(j) This section shall become operative January 1, 2024, shall~~
9 ~~remain in effect only until January 1, 2026, and as of that date is~~
10 ~~repealed.~~

11 ~~(j) This section shall become operative January 1, 2026.~~

12 SEC. 3. Section 54953 of the Government Code, as added by
13 Section 3 of Chapter 285 of the Statutes of 2022, is repealed.

14 ~~54953. (a) All meetings of the legislative body of a local~~
15 ~~agency shall be open and public, and all persons shall be permitted~~
16 ~~to attend any meeting of the legislative body of a local agency,~~
17 ~~except as otherwise provided in this chapter.~~

18 ~~(b) (1) Notwithstanding any other provision of law, the~~
19 ~~legislative body of a local agency may use teleconferencing for~~
20 ~~the benefit of the public and the legislative body of a local agency~~
21 ~~in connection with any meeting or proceeding authorized by law.~~
22 ~~The teleconferenced meeting or proceeding shall comply with all~~
23 ~~requirements of this chapter and all otherwise applicable provisions~~
24 ~~of law relating to a specific type of meeting or proceeding.~~

25 ~~(2) Teleconferencing, as authorized by this section, may be used~~
26 ~~for all purposes in connection with any meeting within the subject~~
27 ~~matter jurisdiction of the legislative body. All votes taken during~~
28 ~~a teleconferenced meeting shall be by rollcall.~~

29 ~~(3) If the legislative body of a local agency elects to use~~
30 ~~teleconferencing, it shall post agendas at all teleconference~~
31 ~~locations and conduct teleconference meetings in a manner that~~
32 ~~protects the statutory and constitutional rights of the parties or the~~
33 ~~public appearing before the legislative body of a local agency.~~
34 ~~Each teleconference location shall be identified in the notice and~~
35 ~~agenda of the meeting or proceeding, and each teleconference~~
36 ~~location shall be accessible to the public. During the teleconference,~~
37 ~~at least a quorum of the members of the legislative body shall~~
38 ~~participate from locations within the boundaries of the territory~~
39 ~~over which the local agency exercises jurisdiction, except as~~
40 ~~provided in subdivision (d). The agenda shall provide an~~

~~1 opportunity for members of the public to address the legislative
2 body directly pursuant to Section 54954.3 at each teleconference
3 location.~~

~~4 (4) For the purposes of this section, “teleconference” means a
5 meeting of a legislative body, the members of which are in different
6 locations, connected by electronic means, through either audio or
7 video, or both. Nothing in this section shall prohibit a local agency
8 from providing the public with additional teleconference locations.~~

~~9 (e) (1) No legislative body shall take action by secret ballot,
10 whether preliminary or final.~~

~~11 (2) The legislative body of a local agency shall publicly report
12 any action taken and the vote or abstention on that action of each
13 member present for the action.~~

~~14 (3) Prior to taking final action, the legislative body shall orally
15 report a summary of a recommendation for a final action on the
16 salaries, salary schedules, or compensation paid in the form of
17 fringe benefits of a local agency executive, as defined in
18 subdivision (d) of Section 3511.1, during the open meeting in
19 which the final action is to be taken. This paragraph shall not affect
20 the public’s right under the California Public Records Act (Chapter
21 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
22 inspect or copy records created or received in the process of
23 developing the recommendation.~~

~~24 (d) (1) Notwithstanding the provisions relating to a quorum in
25 paragraph (3) of subdivision (b), if a health authority conducts a
26 teleconference meeting, members who are outside the jurisdiction
27 of the authority may be counted toward the establishment of a
28 quorum when participating in the teleconference if at least 50
29 percent of the number of members that would establish a quorum
30 are present within the boundaries of the territory over which the
31 authority exercises jurisdiction, and the health authority provides
32 a teleconference number, and associated access codes, if any, that
33 allows any person to call in to participate in the meeting and the
34 number and access codes are identified in the notice and agenda
35 of the meeting.~~

~~36 (2) Nothing in this subdivision shall be construed as
37 discouraging health authority members from regularly meeting at
38 a common physical site within the jurisdiction of the authority or
39 from using teleconference locations within or near the jurisdiction
40 of the authority. A teleconference meeting for which a quorum is~~

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 ~~(3) For purposes of this subdivision, a health authority means~~
4 ~~any entity created pursuant to Sections 14018.7, 14087.31,~~
5 ~~14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare~~
6 ~~and Institutions Code, any joint powers authority created pursuant~~
7 ~~to Article 1 (commencing with Section 6500) of Chapter 5 of~~
8 ~~Division 7 for the purpose of contracting pursuant to Section~~
9 ~~14087.3 of the Welfare and Institutions Code, and any advisory~~
10 ~~committee to a county-sponsored health plan licensed pursuant to~~
11 ~~Chapter 2.2 (commencing with Section 1340) of Division 2 of the~~
12 ~~Health and Safety Code if the advisory committee has 12 or more~~
13 ~~members.~~

14 ~~(e) This section shall become operative January 1, 2026.~~

15 SEC. 4. The Legislature finds and declares that Sections 1 and
16 2 of this act, which amend Section 54953 of the Government Code,
17 furthers, within the meaning of paragraph (7) of subdivision (b)
18 of Section 3 of Article I of the California Constitution, the purposes
19 of that constitutional section as it relates to the right of public
20 access to the meetings of local public bodies or the writings of
21 local public officials and local agencies. Pursuant to paragraph (7)
22 of subdivision (b) of Section 3 of Article I of the California
23 Constitution, the Legislature makes the following findings:

24 This act is necessary to ensure minimum standards for public
25 participation and notice requirements allowing for greater public
26 participation in teleconference meetings.

ASSEMBLY BILL

No. 735

Introduced by Assembly Member Berman

February 13, 2023

An act to add Section 49605 to the Education Code, and to amend Section 14005 of, and to add Article 5 (commencing with Section 14050) to Chapter 3 of Division 7 of, the Unemployment Insurance Code, relating to workforce development.

LEGISLATIVE COUNSEL'S DIGEST

AB 735, as introduced, Berman. Workforce development: utility careers.

(1) Existing law, the California Workforce Innovation and Opportunity Act, requires the California Workforce Development Board to assist the Governor in the development of a high road economy that offers an educated and skilled workforce with fair compensation and treatment in the workplace. In this regard, existing law requires the board to assist in the administration, promotion, and expansion of, as well as field assistance for, high road training partnerships, as defined.

This bill would establish the High Road Utility Careers (HRUC) program, to be administered by the board, to connect existing resources with individuals interested in careers in the utility sector and ensure a continued reliable workforce for California utilities. The bill would require the board to administer the HRUC program through partnerships with statewide water, wastewater, and energy utility associations and to coordinate the program with existing and future programs and initiatives administered by the board, including high road training partnerships, in order to align interested individuals with available resources. The bill would require the HRUC program, upon

appropriation by the Legislature, to dedicate funding and resources toward accomplishing specified goals, including connecting workers to high-quality jobs or entry-level work with defined routes to advancement and increasing skills and opportunities while expanding pipelines for low-income populations.

(2) Existing law requires the State Department of Education to develop a career guidance model for science and technology for use in school district counseling programs in order to provide information to pupils in grades 7 through 12, regarding the potential for employment, educational requirements, and other matters pertaining to careers in the fields of science and technology.

This bill would require the department, by January 1, 2025, to partner with regional and statewide trade associations, among other groups, to develop and distribute informational materials for career guidance to pupils in grades 9 through 12, regarding the potential for employment, educational requirements, and other matters pertaining to careers in these utilities.

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 49605 is added to the Education Code,
- 2 immediately following Section 49604, to read:
- 3 49605. No later than January 1, 2025, the State Department of
- 4 Education shall partner with regional and statewide trade
- 5 associations and industry groups for water, wastewater, and electric
- 6 utilities, and with vocational training programs offered through
- 7 unions and nonprofit, community-based organizations, to develop
- 8 and distribute informational materials for career guidance to pupils
- 9 in grades 9 through 12, regarding the potential for employment,
- 10 educational requirements, and other matters pertaining to careers
- 11 in these utilities. Interested pupils shall be directed to the
- 12 Employment Development Department for potential placement in
- 13 utility jobs.
- 14 SEC. 2. Section 14005 of the Unemployment Insurance Code
- 15 is amended to read:
- 16 14005. For purposes of this division:
- 17 (a) "Board" means the California Workforce Development
- 18 Board.

1 (b) “Agency” means the Labor and Workforce Development
2 Agency.

3 (c) “Career pathways,” “career ladders,” or “career lattices” are
4 an identified series of positions, work experiences, or educational
5 benchmarks or credentials with multiple access points that offer
6 occupational and financial advancement within a specified career
7 field or related fields over time. “Career pathways,” “career
8 ladders,” and “career lattices” offer combined programs of rigorous
9 and high-quality education, training, and other services that do all
10 of the following:

11 (1) Align with the skill needs of industries in the economy of
12 the state or regional economy involved.

13 (2) Prepare an individual to be successful in any of a full range
14 of secondary or postsecondary education options, including
15 apprenticeships registered under the National Apprenticeship Act
16 of 1937 (29 U.S.C. Sec. 50 et seq.), except as in Section 3226 of
17 Title 29 of the United States Code.

18 (3) Include counseling to support an individual in achieving the
19 individual’s education and career goals.

20 (4) Include, as appropriate, education offered concurrently with
21 and in the same context as workforce preparation activities and
22 training for a specific occupation or occupational cluster.

23 (5) Organize education, training, and other services to meet the
24 particular needs of an individual in a manner that accelerates the
25 educational and career advancement of the individual to the extent
26 practicable.

27 (6) Enable an individual to attain a secondary school diploma
28 or its recognized equivalent, and at least one recognized
29 postsecondary credential.

30 (7) Help an individual enter or advance within a specific
31 occupation or occupational cluster.

32 (d) “Cluster-based sector strategies” mean methods of focusing
33 workforce and economic development on those sectors that have
34 demonstrated a capacity for economic growth and job creation in
35 a particular geographic area.

36 (e) “Data driven” means a process of making decisions about
37 investments and policies based on systematic analysis of data,
38 which may include data pertaining to labor markets.

39 (f) “Economic security” means, with respect to a worker, earning
40 a wage sufficient to support a family adequately, and, over time,

1 to save for emergency expenses and adequate retirement income,
2 based on factors such as household size, the cost of living in the
3 worker's community, and other factors that may vary by region.

4 (g) "Evidence-based" means making use of policy research as
5 a basis for determining best policy practices. Evidence-based
6 policymakers adopt policies that research has shown to produce
7 positive outcomes, in a variety of settings, for a variety of
8 populations over time. Successful, evidence-based programs deliver
9 quantifiable and sustainable results. Evidence-based practices
10 differ from approaches that are based on tradition, belief,
11 convention, or anecdotal evidence.

12 (h) "High-priority occupations" mean occupations that have a
13 significant presence in a targeted industry sector or industry cluster,
14 are in demand, or projected to be in demand, by employers, and
15 pay or lead to payment of a wage that provides economic security.

16 (i) (1) "In-demand industry sector or occupation" means either
17 of the following:

18 (A) An industry sector that has a substantial current or potential
19 impact, including through jobs that lead to economic
20 self-sufficiency and opportunities for advancement, on the state,
21 regional, or local economy, as appropriate, and that contributes to
22 the growth or stability of other supporting businesses, or the growth
23 of other industry sectors.

24 (B) An occupation that currently has or is projected to have a
25 number of positions, including positions that lead to economic
26 self-sufficiency and opportunities for advancement, in an industry
27 sector so as to have a significant impact on the state, regional, or
28 local economy, as appropriate.

29 (2) The determination of whether an industry sector or
30 occupation is "in-demand" under this subdivision shall be made
31 by the board or local board, or through the regional planning
32 process in which local boards participate under the Workforce
33 Innovation and Opportunity Act, as appropriate, using state and
34 regional business and labor market projections, including the use
35 of labor market information.

36 (j) "Individual with employment barriers" means an individual
37 with any characteristic that substantially limits an individual's
38 ability to obtain employment, including indicators of poor work
39 history, lack of work experience, or access to employment in
40 nontraditional occupations, long-term unemployment, lack of

1 educational or occupational skills attainment, dislocation from
2 high-wage and high-benefit employment, low levels of literacy or
3 English proficiency, disability status, or welfare dependency,
4 including members of all of the following groups:

- 5 (1) Displaced homemakers.
- 6 (2) Low-income individuals.
- 7 (3) Indians, Alaska Natives, and Native Hawaiians, as those
8 terms are defined in Section 3221 of Title 29 of the United States
9 Code.
- 10 (4) Individuals with disabilities, including youths who are
11 individuals with disabilities.
- 12 (5) Older individuals.
- 13 (6) Ex-offenders.
- 14 (7) Homeless individuals, as defined in Section 14043e-2(6) of
15 Title 42 of the United States Code, or homeless children and
16 youths, as defined in Section 11434a(2) of Title 42 of the United
17 States Code.
- 18 (8) Youth who are in, or have aged out of, the foster care system.
- 19 (9) Individuals who are English language learners, individuals
20 who have low levels of literacy, and individuals facing substantial
21 cultural barriers.
- 22 (10) Eligible migrant and seasonal farmworkers, as defined in
23 Section 3322(i) of Title 29 of the United States Code.
- 24 (11) Individuals within two years of exhausting lifetime
25 eligibility under Part A of Title IV of the Social Security Act (42
26 U.S.C. Sec. 601 et seq.).
- 27 (12) Single parents, including single, pregnant women.
- 28 (13) Long-term unemployed individuals.
- 29 (14) Transgender and gender nonconforming individuals.
- 30 (15) Any other groups as the Governor determines to have
31 barriers to employment.

32 (k) “Industry cluster” means a geographic concentration or
33 emerging concentration of interdependent industries with direct
34 service, supplier, and research relationships, or independent
35 industries that share common resources in a given regional
36 economy or labor market. An industry cluster is a group of
37 employers closely linked by common product or services,
38 workforce needs, similar technologies, and supply chains in a given
39 regional economy or labor market.

1 (l) “Industry or sector partnership” means a workforce
2 collaborative, convened or acting in partnership with the board or
3 a local board, that does the following:

4 (1) Organizes key stakeholders in an industry cluster into a
5 working group that focuses on the shared goals and human
6 resources needs of the industry cluster and that includes, at the
7 appropriate stages of development of the partnership:

8 (A) Representatives of multiple businesses or other employers
9 in the industry cluster, including small and medium-sized
10 employers when practicable.

11 (B) One or more representatives of a recognized state labor
12 organization or central labor council, or another labor
13 representative, as appropriate.

14 (C) One or more representatives of an institution of higher
15 education with, or another provider of, education or training
16 programs that support the industry cluster.

17 (2) The workforce collaborative may include representatives of
18 any of the following:

19 (A) State or local government.

20 (B) State or local economic development agencies.

21 (C) State boards or local boards, as appropriate.

22 (D) A state workforce agency or entity providing employment
23 services.

24 (E) Other state or local agencies.

25 (F) Business or trade associations.

26 (G) Economic development organizations.

27 (H) Nonprofit organizations, community-based organizations,
28 or intermediaries.

29 (I) Philanthropic associations.

30 (J) Industry associations.

31 (K) Other organizations, as determined to be necessary by the
32 members comprising the industry sector or partnership.

33 (m) “Industry sector” means those firms that produce similar
34 products or provide similar services using somewhat similar
35 business processes, and are closely linked by workforce needs,
36 within a regional labor market.

37 (n) “Local labor federation” means a central labor council that
38 is an organization of local unions affiliated with the California
39 Labor Federation or a local building and construction trades council

1 affiliated with the State Building and Construction Trades Council
2 of California.

3 (o) “Sector strategies” means methods of prioritizing
4 investments in competitive and emerging industry sectors and
5 industry clusters on the basis of labor market and other economic
6 data indicating strategic growth potential, especially with regard
7 to jobs and income, and exhibit the following characteristics:

8 (1) Focus workforce investment in education and workforce
9 training programs that are likely to lead to jobs providing economic
10 security or to an entry-level job with a well-articulated career
11 pathway into a job providing economic security.

12 (2) Effectively boost labor productivity or reduce business
13 barriers to growth and expansion stemming from workforce supply
14 problems, including skills gaps and occupational shortages by
15 directing resources and making investments to plug skills gaps
16 and provide education and training programs for high-priority
17 occupations.

18 (3) May be implemented using articulated career pathways or
19 lattices and a system of stackable credentials.

20 (4) May target underserved communities, disconnected youths,
21 incumbent workers, and recently separated military veterans.

22 (5) Frequently are implemented using industry or sector
23 partnerships.

24 (6) Typically are implemented at the regional level where sector
25 firms, those employers described in subdivisions (j) and (l), often
26 share a common labor market and supply chains. However, sector
27 strategies may also be implemented at the state or local level
28 depending on sector needs and labor market conditions.

29 (p) “Workforce Innovation and Opportunity Act of 2014” means
30 the federal act enacted as Public Law 113-128.

31 (q) (1) “Earn and learn” includes, but is not limited to, a
32 program that does either of the following:

33 (A) Combines applied learning in a workplace setting with
34 compensation allowing workers or students to gain work experience
35 and secure a wage as they develop skills and competencies directly
36 relevant to the occupation or career for which they are preparing.

37 (B) Brings together classroom instruction with on-the-job
38 training to combine both formal instruction and actual paid work
39 experience.

(2) “Earn and learn” programs include, but are not limited to, all of the following:

(A) Apprenticeships.

(B) Preapprenticeships.

(C) Incumbent worker training.

(D) Transitional jobs, as described in paragraph (5) of subsection (d) of Section 3174 of Title 29 of the United States Code, as that section read on January 1, 2021, and subsidized employment with an employer of record, which may include, but not be limited to, an employment social enterprise or a worker cooperative, particularly for individuals with barriers to employment.

(E) Paid internships and externships.

(F) Project-based compensated learning.

(r) “High road” means a set of economic and workforce development strategies to achieve economic growth, economic equity, shared prosperity and a clean environment. The strategies include, but are not limited to, interventions that:

(1) Improve job quality and job access, including for women and people from underserved and underrepresented populations.

(2) Meet the skill and profitability needs of employers.

(3) Meet the economic, social, and environmental needs of the community.

(s) “High road training partnership” means an initiative or project that models strategies for developing industry-based, worker-focused training partnerships, including labor-management partnerships. High Road Training partnerships operate via regional, industry- or sector-based training partnerships comprised of employers, workers, and their representatives including organized labor, community-based organizations, education, training, and social services providers, and labor market intermediaries. High Road Training partnerships demonstrate job quality standards and employment practices that include, but are not limited to, the following:

(1) Provision of comparatively good wages and benefits, relative to the industry, occupation, and labor market in which participating workers are employed.

(2) Payment of workers at or above local or regional living wage standards as well as payment at or above regional prevailing wage standards where such standards exist for the occupations in question.

1 (3) A history of investment in employee training, growth, and
2 development.

3 (4) Provision of opportunities for career advancement and wage
4 growth.

5 (5) Safe and healthy working conditions.

6 (6) Consistent compliance with workplace laws and regulations,
7 including proactive efforts to remedy past problems.

8 (7) Adoption of mechanisms to include worker voice and agency
9 in the workplace.

10 (t) “High road construction careers” are high road training
11 partnerships that invest in regional training partnerships comprised
12 of local building trades councils, workforce, community, and
13 education interests that connect to state-approved apprenticeship
14 programs, that utilize the standard Multi-Craft Core
15 preapprenticeship training curriculum and provide a range of
16 supportive services and career placement assistance to women and
17 people from underserved and underrepresented populations.

18 (u) “Career advancement” means demonstrated progression
19 along a career ladder as evidenced by both wage growth and
20 occupational advancement.

21 (v) “Employment social enterprise” means a nonprofit or
22 for-profit organization that meets all of the following requirements:

23 (1) Is organized as a social purpose corporation or a benefit
24 corporation, or as an organization incorporated within a larger
25 organization.

26 (2) Demonstrates evidence of a mission to provide and to access
27 employment and social supports with on-the-job and life skills
28 training to a direct labor force comprised of individuals with a
29 “barrier to employment,” as that phrase is defined in Section 3102
30 of Title 29 of the United States Code, as that section read on
31 January 1, 2021.

32 (3) Is evidence-based and utilizes data-driven policies in
33 implementing procedures and measuring outcomes.

34 (4) Produces or assembles goods or provides services, or a
35 combination of both.

36 (w) “Worker cooperative” has the same meaning as defined in
37 Section 12253.5 of the Corporations Code.

38 (x) “*High Road Utility Careers program*” or “*HRUC*” means
39 the program established in Article 5 (commencing with Section
40 14050) of Chapter 3.

1 SEC. 3. Article 5 (commencing with Section 14050) is added
2 to Chapter 3 of Division 7 of the Unemployment Insurance Code,
3 to read:

4
5 Article 5. High Road Utility Careers Program
6

7 14050. For purposes of this article, the following definitions
8 apply:

9 (a) “California Workforce Development Board” or “board”
10 means the California Workforce Development Board established
11 pursuant to Article 1 (commencing with Section 14010).

12 (b) “HRUC program” or “HRUC” means the High Road Utility
13 Careers program.

14 (c) “Utilities” includes private and public entities that provide
15 electric, gas, water, wastewater, sewer, trash, recycled water, or
16 telecommunication services in California.

17 14051. (a) There is hereby established the High Road Utility
18 Careers program, to be administered by the California Workforce
19 Development Board.

20 (b) The primary purpose of HRUC is to connect existing
21 resources with individuals interested in careers in the utility sector
22 and to ensure a continued reliable workforce for California utilities.

23 (c) For purposes of administering the HRUC, the board shall
24 do all of the following:

25 (1) Administer the HRUC program through partnerships with
26 statewide water, wastewater, and energy utility associations. The
27 board shall coordinate, where possible, and share resources, tools,
28 and information with these partners.

29 (2) Coordinate the HRUC program with existing and future
30 programs and initiatives administered by the board, including high
31 road training partnerships and the Breaking Barriers to Employment
32 Initiative, in order to align interested individuals with available
33 resources.

34 (3) Partner with public schools, including, but not limited to,
35 high schools, technical colleges, community colleges, universities,
36 and continuing education schools to promote career placement in
37 the utility sector.

38 14052. The HRUC program shall do all of the following:

39 (a) Partner with regional and state trade associations, industry
40 groups, vocational training programs offered through nonprofit,

1 community-based organizations, and unions to promote training
2 on essential job duties required for working in utilities and on
3 diversity, equity, and inclusion. The board shall partner with public
4 schools, including, but not limited to, high schools, technical
5 colleges, community colleges, universities, and continuing
6 education schools to promote career placement in the utility sector.

7 (b) Prioritize supportive services and career placement assistance
8 to people from underserved and underrepresented populations.

9 (c) Provide individuals interested in employment within the
10 utility sector with the services needed to enter, participate in, and
11 complete broader workforce preparation, training, and education
12 programs, and, ultimately, to obtain and retain employment.

13 (d) Build systems and policies to advance equity, access to skills
14 and economic opportunity, and job quality.

15 (e) Through a network of trainings, workshops, classes, and
16 presentations, seek to educate the potential workforce on regional
17 and statewide opportunities in utility work.

18 (f) (1) Seek to create regional partnerships across California
19 with utility members.

20 (2) These regional partnerships shall work together to collect
21 existing content, and create new content, to reach potential
22 candidates with an emphasis on diversity, equity, and inclusion.

23 14053. Upon appropriation by the Legislature for this express
24 purpose, the HRUC program shall dedicate funding and resources
25 toward accomplishing all of the following goals:

26 (a) Connecting workers to high-quality jobs or entry-level work
27 with defined routes to advancement.

28 (b) Increasing skills and opportunities while expanding pipelines
29 for low-income populations.

30 (c) Prioritizing upward mobility for residents of low-income
31 communities.

32 (d) Addressing worker, employer, and industry needs.

33 (e) Developing workforce development programs or providing
34 research, planning, and development, or both.

35 (f) Connecting workers to existing resources and services.

36 (g) Developing regional strategies to support workers and
37 communities in adapting to and creating new workforce
38 opportunities.

O

ASSEMBLY BILL

No. 460

Introduced by Assembly Member Bauer-Kahan

February 6, 2023

An act to add Chapter 3.6 (commencing with Section 1115) to Part 1 of Division 2 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 460, as introduced, Bauer-Kahan. State Water Resources Control Board: interim relief.

The California Constitution requires the reasonable and beneficial use of water. Under the public trust doctrine, the State Water Resources Control Board, among other state agencies, is required to take the public trust into account in the planning and allocation of water resources and to protect the public trust whenever feasible. The board and the California regional water quality control boards are required to set forth water quality objectives in state and regional water quality control plans. Existing law establishes the Water Rights Fund, which consists of various fees and penalties. The moneys in the Water Rights Fund are available upon appropriation by the Legislature for the administration of the board's water rights program.

Existing law requires that the owner of any dam allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around, or through the dam, to keep in good condition any fish that may be planted or exist below the dam, as specified.

This bill would authorize the board to issue, on its own motion or upon the petition of an interested party, an interim relief order in appropriate circumstances to implement or enforce these and related

provisions of law. The bill would provide that a person or entity that violates any interim relief order issued by the board would be liable to the board for a civil penalty in an amount not to exceed the sum of \$10,000 for each day in which a violation occurs and \$5,000 for each acre-foot of water diverted in violation of the interim relief order. The bill would require these funds to be deposited in the Water Rights Fund.

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. Chapter 3.6 (commencing with Section 1115) is
2 added to Part 1 of Division 2 of the Water Code, to read:

3
4 CHAPTER 3.6. INTERIM RELIEF

5
6 1115. (a) The board may issue an interim relief order in
7 appropriate circumstances, after notice and an opportunity for a
8 hearing, in adjudicative proceedings to apply or enforce any of the
9 following:

10 (1) Section 2 of Article X of the California Constitution.

11 (2) The public trust doctrine.

12 (3) Water quality objectives or principals and guidelines adopted
13 under subdivision (b) of Section 13142, Section 13149, Section
14 13170, or 13241.

15 (4) The requirements set forth in permits, licenses, certificates,
16 and registrations issued under Part 2 (commencing with Section
17 1200), including actions that invoke the board's reserved
18 jurisdiction or continuing authority.

19 (5) Section 5937 of the Fish and Game Code.

20 (b) The board may commence an interim relief proceeding on
21 its own motion or upon the petition of an interested party. The
22 board shall not accept a petition that does not include all of the
23 following information:

24 (1) The name and mailing address of the petitioner.

25 (2) A description of the specific diversion or use of water that
26 the petitioner is contesting.

27 (3) A statement of the petitioner's interest in the contested
28 diversion or use of water.

1 (4) Identification of the adjudicative proceedings in which
2 interim relief is requested.

3 (5) A description of the harm or injury complained of.

4 (6) An explanation of the nexus between the diversion or use
5 and the alleged harm or injury.

6 (7) The relief the petitioner is requesting.

7 (8) A statement of reasons explaining why the relief is justified.

8 (9) Any additional information that the board may deem
9 appropriate.

10 (c) The board may dismiss a petition that does not raise
11 substantial issues that are appropriate for review.

12 (d) Unless the board concludes that consideration of the matter
13 is urgent, the board shall provide notice at least 20 days before the
14 hearing date. In its discretion, the board may provide that the
15 evidence to be considered shall be based on declarations under
16 penalty of perjury, the testimony of witnesses at the hearing, or
17 both. The board shall also consider oral or written legal argument
18 that is provided in a timely manner by the parties. The board may
19 establish a schedule for filing declarations and written arguments.

20 (e) If the board issues an interim relief order without providing
21 at least 20 days' notice before the hearing date, or if the board
22 issues an interim relief order after considering the declaration of
23 any witness who is not available for cross-examination, the interim
24 relief order shall remain in effect for a period not to exceed 180
25 days unless the party to whom the interim relief order is issued
26 agrees to an extension of that period. This subdivision is not a
27 limitation on the authority of the board to issue any additional
28 interim relief in response to changed circumstances.

29 (f) In determining whether to provide interim relief, and the
30 nature and extent of the relief, the board shall consider all relevant
31 circumstances, including the effects on other legal users of water,
32 fish, wildlife, and other instream beneficial uses, the extent of
33 harm, the necessity for relief, and any appropriate measures to
34 minimize any adverse effects of providing interim relief. Sufficient
35 grounds shall exist for interim relief upon the same showing as
36 would be required for a superior court to grant a preliminary
37 injunction.

38 1115.5. (a) As part of the interim relief order, the board may
39 require a water diverter or user to do any of the following:

40 (1) Cease all harmful practices.

1 (2) Employ specific procedures and operations to prevent or
2 mitigate the harm.

3 (3) Complete technical and monitoring work and prepare and
4 submit reports on that work, including draft environmental
5 documentation.

6 (4) Participate in, and provide funding for, studies that the board
7 determines are reasonably necessary to evaluate the impact of the
8 diversion or use that is the subject of the adjudicative proceeding.

9 (5) Reimburse the board's expenses for the preparation of any
10 necessary environmental documentation.

11 (6) Take other required action.

12 (b) The board shall set a schedule for compliance with any
13 interim relief order.

14 1116. If the board orders interim relief, the board shall set a
15 schedule, as soon as reasonably possible, for the board's
16 consideration of permanent relief. The schedule shall include
17 actions that the water diverter or user is required to undertake to
18 ensure timely consideration of the permanent relief. The actions
19 required of the water diverter or user may include, but are not
20 limited to, the completion of technical and monitoring work, the
21 preparation and submittal of reports on that work, including draft
22 environmental documentation, and the reimbursement of the
23 board's expenses. Any permanent relief shall be granted after
24 notice and an opportunity for a hearing.

25 1116.5. (a) Except as otherwise specified in this section, any
26 interim relief order issued by the board is exempt from the
27 requirements of Division 13 (commencing with Section 21000)
28 of the Public Resources Code if the board makes either of the
29 following findings:

30 (1) Providing interim relief will not have a significant adverse
31 effect on the environment.

32 (2) Providing interim relief will result in environmental benefits
33 or prevent harm to environmental resources, and the benefits
34 provided or harm prevented outweighs any adverse effects that
35 may result from providing interim relief. If the board makes a
36 finding pursuant to this paragraph, the board shall also adopt the
37 finding or findings specified in Section 21081 of the Public
38 Resources Code.

39 (b) Any findings of the board pursuant to this section shall be
40 supported by substantial evidence in the record. If the board makes

1 the findings specified in paragraph (1) of subdivision (a) of Section
2 21081 of the Public Resources Code, or if the board finds that
3 providing interim relief will not have a significant adverse effect
4 on the environment because a potentially significant adverse effect
5 will be avoided as a result of mitigation incorporated in the board's
6 order, the board shall adopt a reporting and monitoring program
7 in accordance with Section 21081.6 of the Public Resources Code.

8 (c) Sections 21167, 21167.1, 21167.4, 21167.5, 21167.6.5,
9 21167.7, 21167.8, 21168, 21168.5, 21168.9, and 21177 of the
10 Public Resources Code shall apply to any action or proceeding to
11 attack, review, set aside, void, or annul any action or decision of
12 the board pursuant to this chapter on grounds of noncompliance
13 with this section.

14 1117. The board may review and revise any part of an interim
15 relief order at any time after notice to all interested parties and an
16 opportunity for a hearing.

17 1117.5. The issuance or denial of an interim relief order by the
18 board does not alter the burdens of proof or the burdens of coming
19 forward with respect to the board's final decision on the merits in
20 the adjudicative proceeding in which interim relief is requested.

21 1118. This chapter is not a limitation on the jurisdiction of any
22 court or agency over any matter within that court or agency's
23 jurisdiction.

24 1118.5. If a water diverter or user does not comply with an
25 interim relief order, the Attorney General, upon the request of the
26 board, shall petition the superior court for prohibitory or mandatory
27 injunctive relief, as necessary, through the issuance of a temporary
28 restraining order, preliminary injunction, or permanent injunction.

29 1119. (a) (1) Any person or entity that violates an interim
30 relief order issued by the board is liable for a civil penalty not to
31 exceed the sum of the following:

32 (A) Ten thousand dollars (\$10,000) for each day in which a
33 violation occurs.

34 (B) Five thousand dollars (\$5,000) for each acre-foot of water
35 diverted in violation of the interim relief order.

36 (2) Civil liability may be imposed by the superior court. The
37 Attorney General, upon request of the board, shall petition the
38 superior court to impose the liability. The Superior Court shall
39 impose the civil penalty if it determines by a preponderance of the

1 evidence that the water diverter or user subject to the interim relief
2 order has violated the order.

3 (3) Civil liability may be imposed administratively by the board
4 pursuant to Section 1055.

5 (b) In determining the appropriate amount, the court or board,
6 as the case may be, shall consider all the relevant circumstances,
7 including the extent of harm caused by the violation, the nature
8 and persistence of the violation, the length of time over which the
9 violation occurs, and any corrective action undertaken by the
10 violator.

11 (c) All funds recovered pursuant to this section shall be
12 deposited in the Water Rights Fund.

13 (d) Remedies under this section are in addition to, and do not
14 supersede or limit, any and all other remedies, civil or criminal.

15 1119.5. This chapter does not limit any authority held by the
16 board under this code or any other provision of law.

AMENDED IN ASSEMBLY MARCH 13, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 676

Introduced by Assembly Member Bennett

February 13, 2023

An act to amend Section 106 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 676, as amended, Bennett. Water: general state policy.

Existing law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation.

~~This bill would instead declare that the use of water for health and safety purposes is the highest use of water.~~

This bill would provide specific examples of the use of water for domestic purposes, including, but not limited to, sustenance of human beings and household conveniences. The bill would provide that all water rights remain subject to specified laws.

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

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

- 1 *SECTION 1. Section 106 of the Water Code is amended to*
- 2 *read:*
- 3 106. (a) It is hereby declared to be the established policy of
- 4 this ~~State~~ *state* that the use of water for domestic purposes is the
- 5 highest use of water and that the next highest use is for irrigation.

1 **(b)** *Domestic purposes include, but are not limited to, water use*
2 *for all of the following:*

3 **(1)** *Sustenance of human beings and household conveniences.*

4 **(2)** *Care of household livestock and animals.*

5 **(3)** *Care of household gardens.*

6 **(4)** *Deliveries of water by community water systems, other*
7 *public, municipal, and industrial water agencies, and water*
8 *corporations regulated by the Public Utilities Commission.*

9 **(c)** **(1)** *All water rights remain subject to the reasonable use*
10 *doctrine, pursuant to Section 2 of Article X of the California*
11 *Constitution, and the public trust doctrine, as provided in National*
12 *Audubon Society v. Superior Court (1983) 33 Cal.3d 419 and*
13 *subsequent California court decisions.*

14 **(2)** *Pursuant to Section 85023, the longstanding constitutional*
15 *principle of reasonable use and the public trust doctrine provide*
16 *the foundation for state water management policy.*

17 ~~SECTION 1. Section 106 of the Water Code is amended to~~
18 ~~read:~~

19 ~~106. It is hereby declared to be the established policy of this~~
20 ~~state that the use of water for health and safety purposes is the~~
21 ~~highest use of water and that the next highest use is for irrigation.~~

ASSEMBLY BILL

No. 1337

Introduced by Assembly Member Wicks

February 16, 2023

An act to add Chapter 2.5 (commencing Section 1065) to Part 1 of Division 2 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as introduced, Wicks. State Water Resources Control Board: water shortage enforcement.

Existing law establishes the State Water Resources Control Board in the California Environmental Protection Agency and vests the board with various powers and duties, including, among other things, to ascertain whether or not water heretofore filed upon or attempted to be appropriated is appropriated under the laws of this state. Existing law authorizes the board to adopt emergency regulations if, among other things, the regulations are adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that the lead agency proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would authorize the board to adopt regulations for various water conservation purposes, including, but not limited to, to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, and to implement these regulations through orders curtailing the diversion or use of water under any claim of right. The bill would require the board to provide notice and an opportunity to be heard before issuing an order, except where an opportunity to be heard before the issuance of an order would be impractical given the likelihood of harm to the purposes of the various water conservation regulations. The bill would provide that a person or entity may be civilly liable for a violation of any regulation or order issued by the board pursuant to these provisions in an amount not to exceed \$1,000 for each day in which the violation has occurred and \$2,500 for each acre-foot of water diverted or used in violation of the applicable requirement. The bill would authorize the imposition of this civil liability by the superior court, as specified, or administratively by the board. The bill would provide that a regulation or order issued by the board pursuant to these provisions, or by emergency regulation, is exempt from CEQA.

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. Chapter 2.5 (commencing with Section 1065) is
2 added to Part 1 of Division 2 of the Water Code, to read:

3
4 CHAPTER 2.5. WATER SHORTAGE ENFORCEMENT
5

6 1065. The board may adopt regulations for any of the following
7 purposes:

8 (a) To prevent the waste, unreasonable use, unreasonable method
9 of use, or unreasonable method of diversion of water.

10 (b) To promote water recycling or water conservation.

11 (c) To protect public trust resources.

12 (d) To require curtailment of diversions when water is not
13 available under the diverter's priority of right.

14 (e) In furtherance of any of the purposes of this section, to
15 require reporting of diversion or use or the preparation of
16 monitoring reports.

1 1066. (a) The board may implement regulations through orders
2 curtailing the diversion or use of water under any claim of right.

3 (b) (1) The board shall provide notice and an opportunity to be
4 heard, except where an opportunity to be heard before the issuance
5 of an order would be impractical given the likelihood of harm to
6 the purposes described in Section 1065, or other relevant
7 circumstances.

8 (2) The opportunity to be heard may be tailored to the
9 circumstances, may be a collective rather than individual process,
10 and may be written or oral.

11 (3) If the board does not provide an opportunity to be heard
12 before the issuance of an order, the board shall promptly provide
13 the opportunity after the issuance of the order, such as through the
14 petition for reconsideration process pursuant to Chapter 4
15 (commencing with Section 1120).

16 1067. (a) A person or entity may be civilly liable for a violation
17 of any regulation or order issued under this chapter in an amount
18 not to exceed the sum of the following:

19 (1) One thousand dollars (\$1,000) for each day in which the
20 violation has occurred.

21 (2) Two thousand five hundred dollars (\$2,500) for each
22 acre-foot of water diverted or used in violation of the applicable
23 requirement.

24 (b) Civil liability may be imposed by the superior court. The
25 Attorney General, upon the request of the board, shall petition the
26 superior court to impose, assess, and recover those sums.

27 (c) Civil liability may be imposed administratively by the board
28 pursuant to Section 1055.

29 1068. A regulation or order issued by the board under this
30 chapter or Section 1058.5 shall be exempt from the requirements
31 of the California Environmental Quality Act (Division 13
32 (commencing with Section 21000) of the Public Resources Code).

33 1069. This chapter does not limit any authority held by the
34 board under this code or any other law.

Introduced by Senator Allen

February 9, 2023

An act to add Article 6 (commencing with Section 1860) to Chapter 12 of Part 2 of Division 2 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 389, as introduced, Allen. State Water Resources Control Board: determination of water right.

Existing law establishes the State Water Resources Control Board within the California Environmental Protection Agency. Existing law provides generally for the appropriation of water. Existing law provides that it is the intent of the Legislature that the state take vigorous action to enforce the terms and conditions of permits, licenses, certifications, and registrations to appropriate water, to enforce state board orders and decisions, and to prevent the unlawful diversion of water.

This bill would authorize the State Water Resources Control Board to investigate the diversion and use of water from a stream system to determine whether the diversion and use are based upon appropriation, riparian right, or other basis of right, 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. Article 6 (commencing with Section 1860) is
- 2 added to Chapter 12 of Part 2 of Division 2 of the Water Code, to
- 3 read:

Article 6. Determination of Basis of Right

1860. The state board may investigate the diversion and use of water from a stream system to determine whether the diversion and use are based upon appropriation, riparian right, or other basis of right.

1861. In furtherance of an investigation authorized pursuant to Section 1860, the state board may issue an information order to a water right claimant, diverter, or user to provide technical reports or other information related to a diversion and use of water, including, but not limited to, all of the following:

(a) Information in addition to any information required to be reported pursuant to Part 5.1 (commencing with Section 5100).

(b) Information related to the basis of the water right claimed.

(c) Information related to the patent date claimed for the place of use.

(d) Information related to the notice date of the appropriation and the date of actual delivery of water to beneficial use.

(e) Information related to prior diversions and use, including direct diversions and diversions to storage.

(f) Information related to the diversions and use of transferred water.

1862. After notice and opportunity for hearing, the state board may issue a decision or order determining the diversion and use basis of right, including the authorized scope of the diversion and use, or may issue a decision or order determining that the diversion and use is not authorized under any basis of right.

1863. In determining under this article whether a holder of an appropriative water right has forfeited the right or any portion of the right pursuant to Sections 1240 and 1241, the state board is not required to find the existence of a conflicting claim by any water right holder within the stream system during the period of forfeiture.

1864. In any state board proceeding to determine a diversion and use basis of right under this article, the water right claimant, diverter, or user shall have the burden of proving by the preponderance of evidence the elements of the basis of right.

1 1865. Nothing in this article shall limit the authority of the
2 state board to issue any decision or order, or to take any other
3 action authorized by law.

O



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: April 3, 2023

RE: Update on Water Policy/Resources Activities

Background

This memorandum is provided to briefly summarize the current status of various agency processes regarding water policy activities, including but not limited to the (1) Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project, including environmental compliance; (2) State Water Resources Control Board action; (3) San Joaquin River Restoration Program; (4) Delta conveyance; (5) Reclamation action; (6) Delta Stewardship Council action; (7) San Joaquin Valley Water Blueprint and San Joaquin Valley Water Collaborative Action Plan.

Policy Items

Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project

In August 2016, the Bureau of Reclamation and California Department of Water Resources (DWR) requested reinitiation of consultation with NOAA Fisheries, also known as National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) due to multiple years of drought, low populations of listed species, and new information developed as a result of ongoing collaborative science efforts over the last 10 years.

On Jan. 31, 2019, Reclamation transmitted its Biological Assessment to the Services. The purpose of this action is to continue the coordinated long-term operation of the CVP and SWP to optimize water supply delivery and power generation consistent with applicable laws, contractual obligations, and agreements; and to increase operational flexibility by focusing on nonoperational measures to avoid significant adverse effects to species.

The biological opinions carefully evaluated the impact of the proposed CVP and SWP water operations on imperiled species such as salmon, steelhead and Delta smelt. FWS and NMFS documented impacts and worked closely with Reclamation to modify its proposed operations to minimize and offset those impacts, with the goals of providing water supply for project users and protecting the environment.

Both FWS and NMFS concluded that Reclamation's proposed operations will not jeopardize threatened or endangered species or adversely modify their critical habitat. These conclusions were reached for

several reasons – most notably because of significant investments by many partners in science, habitat restoration, conservation facilities including hatcheries, as well as protective measures built into Reclamation's and DWR's proposed operations.

On Oct. 21, 2019, FWS and NMFS released their biological opinions on Reclamation's and DWR's new proposed coordinated operations of the CVP and SWP.

On Dec. 19, 2019, Reclamation released the final Environmental Impact Statement analyzing potential effects associated with long-term water operations for the CVP and SWP.

On Feb. 18, 2020, Reclamation approved a Record of Decision that completes its environmental review for the long-term water operations for the CVP and SWP, which incorporates new science to optimize water deliveries and power production while protecting endangered species and their critical habitats.

On January 20, 2021, President Biden signed an Executive Order: “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis”, with a fact sheet¹ attached that included a non-exclusive list of agency actions that heads of the relevant agencies will review in accordance with the Executive Order. Importantly, the NOAA Fisheries and U.S. Fish and Wildlife Service Biological Opinions on the Long-Term Operation of the Central Valley Project and State Water Project were both included in the list of agency actions for review.

On September 30, 2021, Reclamation Regional Director Ernest Conant sent a letter to U.S. FWS Regional Director Paul Souza and NMFS Regional Administrator Barry Thom requesting reinitiation of consultation on the Long-Term Operation of the CVP and SWP. Pursuant to 50 CFR § 402.16, Reclamation indicated that reinitiation is warranted based on anticipated modifications to the Proposed Action that may cause effects to listed species or designated critical habitats not analyzed in the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) Biological Opinions, dated October 21, 2019. To address the review of agency actions required by Executive Order 13990 and to voluntarily reconcile CVP operating criteria with operational requirements of the SWP under the California Endangered Species Act, Reclamation and DWR indicated that they anticipate a modified Proposed Action and associated biological effects analysis that would result in new Biological Opinions for the CVP and SWP.

Following this action, on October 20, 2021, the SLDMWA sent a letter to Reclamation Regional Director Ernest Conant requesting participation in the reinitiation of consultation pursuant to Section 4004 of the WIIN Act and in the NEPA process as either a Cooperating Agency or Participating Agency.

On February 26, 2022, the Department of the Interior released a Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Hold Public Scoping Meetings on the 2021 Endangered Species Act Reinitiation of Section 7 Consultation on the Long-Term Operation of the Central Valley Project and State Water Project². In response to this, on March 30, 2022, the SLDMWA submitted a comment letter highlighting actions for Reclamation to consider during preparation of the EIS.

¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/>

² <https://www.govinfo.gov/content/pkg/FR-2022-02-28/pdf/2022-04160.pdf>

During May 2022, Reclamation issued draft copies of the Knowledge Base Papers for the following management topics and requested supplementary material review and comments, to which the Authority submitted comment letters in June:

1. Spring-run Juvenile Production Estimate- Spring-run Survival Knowledge Base Document, May 2022
2. Steelhead Juvenile Production Estimate-Steelhead Survival Knowledge Base Document, April 2022
3. Old and Middle River Reverse Flow Management – Smelt, Chinook Salmon, and Steelhead Migration and Survival Knowledge Base Document, May 2022
4. Central Valley Tributary Habitat Restoration Effects on Salmonid Growth and Survival Knowledge Based Paper, March 2022
5. Delta Spring Outflow Management Smelt Growth and Survival Knowledge Base Document, May 2022
6. Pulse Flow Effects on Salmonid Survival Knowledge Base Document, May 2022
7. Summer and Fall Habitat Management Actions – Smelt Growth and Survival Knowledge Base Document, May 2022
8. Shasta Cold Water Pool Management – End of September Storage Knowledge Base Document, May 2022

Subsequent to the Knowledge Base Paper review, a Scoping Meeting was held, to which Water Authority staff provided comments, resulting in the release of a Scoping Report³ by Reclamation in June 2022.

On October 14, 2022, Reclamation released an Initial Alternatives Report (IAR), which Authority staff is reviewing and coordinating with member agencies for potential engagement with Reclamation regarding the alternatives presented in the report. Currently, Reclamation is not anticipating accepting formal comments on the IAR, but instead will be accepting comments on the draft Environmental Impact Statement, which is anticipated to be released within the next month or two.

Current Milestones

- December 2022 – Proposed Action and Alternatives
- Early 2023 – Public Draft EIS/Biological Assessment
 - The public draft EIS will be the avenue for comments to Reclamation
 - Cooperating agencies will receive an administrative draft of the EIS
- June 2023 – Next WIIN Act Quarterly Meeting
- February 2024 – Record of Decision

Exploratory Modeling

Concurrent with the development of the EIS and BA, Reclamation is conducting Exploratory Modeling to assist in the development of the Proposed Action and Biological Assessment. As a part of this work, the Benchmark model has been updated, with further updates to come. Current efforts are focused on modeling of the various alternatives provided in the IAR, with an expected completion date of the June for the final NEPA alternative analysis.

³ <https://www.usbr.gov/mp/bdo/docs/lto-scoping-report-2022.pdf>

*Proposed Shasta Framework**Goals*

- Consider and adapt to climate change proactively
- Proactively limit extreme drought effects
- Avoid dramatic changes in water supply
 - Limit spill frequency and magnitude
- Connect fish protections with drought protections
 - Manage Shasta and take actions that will support cold water pool and overall storage volume if the following year is dry
 - Support drought protection based on hydrology, system conditions, and fish conditions together
- Consider Victorian Objectives – enhance in wet years, protect in dry years
- Integrate VA assets as a mechanism for achieving Shasta management objectives (flows and habitat)
- Enhanced collaboration, especially in drought years
- Recognize the value of habitat improvements
- Science-based planning
- Multi-agency management evaluation of system-wide risk tradeoffs

Ongoing Discussions

- Representing Sacramento River Settlement Contractor Demands by Historic Diversion and Transfers
- Reductions to CVPIA Level 2 Refuge Deliveries
- Temporary Urgency Change Petitions
- Voluntary Agreements
- Sacramento River Settlement Contractor Ownership of Reductions
- Transfers
- Wilkins Slough Criteria
- Storage, Conveyance, and Other Infrastructure Projects
- 2040 Climate Conditions

Longfin Smelt Proposed Rule

On Thursday, October 6, the U.S. Fish and Wildlife Service announced a proposed rulemaking to list the San Francisco Bay-Delta distinct population segment of longfin smelt as an endangered species under the Endangered Species Act (ESA).

Longfin smelt are currently listed as a threatened species under California's Endangered Species Act, which prohibits unpermitted possession, purchase, sale or take of listed species. However, the state's definition of take does not include harm, which under the federal ESA can include destruction of habitat.

The Authority joined a letter⁴ with the State Water Contractors pointing out deficiencies in the science used to support the proposed listing of the longfin smelt distinct population segment as endangered and requested a public hearing on the listing status. We are pending a response to that public hearing request.

In response to this letter, on February 25, the Service reopened the [public comment period](#) through March 29, 2023, and hosted a virtual hearing where Authority staff provided comments consistent with the Authority's comment letter.

State Water Resources Control Board (State Water Board) Activity

Bay Delta Water Quality Control Plan Update

Background

The State Water Board is currently considering updates to its 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ("Bay Delta Plan") in two phases (Plan amendments). The first Plan amendment is focused on San Joaquin River flows and southern Delta salinity ("Phase I" or "San Joaquin River Flows and Southern Delta Salinity Plan Amendment"). The second Plan amendment is focused on the Sacramento River and its tributaries, Delta eastside tributaries (including the Calaveras, Cosumnes, and Mokelumne rivers), Delta outflows, and interior Delta flows ("Phase II" or "Sacramento/Delta Plan Amendment").

During the December 12, 2018 Water Board Meeting, the Department of Water Resources ("DWR") and Department of Fish and Wildlife presented proposed "Voluntary Settlement Agreements" ("VSAs") on behalf of Reclamation, DWR, and the public water agencies they serve to resolve conflicts over proposed amendments to the Bay-Delta Plan update.⁵ The State Water Board did not adopt the proposed VSAs in lieu of the proposed Phase 1 amendments, but as explained below, directed staff to consider the proposals as part of a future Delta-wide proposal.

Phase 1 Status: The State Water Board adopted a resolution⁶ to adopt amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and adopt the Final Substitute Environmental Document during its December 12, 2018 public meeting.

Most recently, on July 18, 2022, the State Water Resources Control Board issued a Notice of Preparation (NOP)⁷ and California Environmental Quality Act (CEQA) Scoping Meeting for the Proposed Regulation to Implement Lower San Joaquin River Flows (LSJR) and Southern Delta Salinity Objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta Plan).

⁴ Request from Authority staff

⁵ Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

⁶ Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

⁷ Available at https://www.waterboards.ca.gov/public_notices/notices/20220715-implementation-nop-and-scoping-dwr-baydelta.pdf

The purpose of the NOP is: (1) to advise responsible and trustee agencies, Tribes, and interested organizations and persons, that the State Water Board or Board will be the lead agency and will prepare a draft EIR for a proposed regulation implementing the LSJR flow and southern Delta salinity components of the 2018 Bay-Delta Plan, and (2) to seek input on significant environmental issues, reasonable alternatives, and mitigation measures that should be addressed in the EIR. For responsible and trustee agencies, the State Water Board requests the views of your agency as to the scope and content of the environmental information related to your agency's area of statutory responsibility that must be included in the draft EIR.

In response to the release of the NOP, the Water Authority and member agencies provided scoping comments⁸.

Phase 2 Status: In the State Water Board's resolution adopting the Phase 1 amendments, the Water Board directed staff to assist the Natural Resources Agency in completing a Delta watershed-wide agreement, including potential flow and non-flow measures for the Tuolumne River, and associated analyses no later than March 1, 2019. Staff were directed to incorporate the Delta watershed-wide agreement as an alternative for a future, comprehensive Bay-Delta Plan update that addresses the reasonable protection of beneficial uses across the Delta watershed, with the goal that comprehensive amendments may be presented to the State Water Board for consideration as early as possible after December 1, 2019.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents⁹ to the State Water Board that reflect progress since December to flesh-out the previously submitted framework to improve conditions for fish through targeted river flows and a suite of habitat-enhancing projects including floodplain inundation and physical improvement of spawning and rearing areas.

Since the March 1 submittal, work has taken place to develop the package into a form that is able to be analyzed by State Water Board staff for legal and technical adequacy. On June 30, 2019, a status update with additional details was submitted to the Board for review. Additionally, on February 4, 2020, the State team released a framework for the Voluntary Agreements to reach "adequacy", as defined by the State team.

Further work and analysis is needed to determine whether the agreements can meet environmental objectives required by law and identified in the State Water Board's update to the Bay-Delta Water Quality Control Plan.

Schedule

LSJR Flow/SD Salinity Implementation Next Steps Assuming Regulation Path (Phase 1)

- Summer 2023: Executive Director act on draft COP, compliance methods, and procedures for adaptive implementation

⁸ Request from Authority staff

⁹ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

- Fall 2023
 - Scientific Basis Report for Tuolumne River VAs submitted for peer review
 - Draft Staff Report for Bay-Delta Plan amendment for Tuolumne River VA
 - Draft Regulation and Draft EIR in support of a regulation implementing Lower SJR flows and South Delta Salinity
- Winter/Spring 2024
 - Final draft Staff Report for Tuolumne River VA
 - Board workshop and consideration of Tuolumne River VA
 - Final draft EIR and regulation implementing Lower SJR flows and South Delta Salinity
 - Board consideration of regulation implementing Lower SJR flows and South Delta Salinity

Sac/Delta Update: Key Milestones

- Spring 2023: Scientific Basis Report Supplement for Sacramento River/Delta Voluntary Agreements submitted for peer review after addressing public comments
- Spring 2023: Draft Sacramento River/Delta Update Staff Report public review and comment
- Spring/Summer 2023: Public workshop on Draft Staff Report
- Spring/Summer 2024: Response to comments and development of proposed final changes to the Bay-Delta Plan
- Summer/Fall 2024: Board consideration of adoption

Voluntary Agreements

On March 29, 2022, members of the Newsom Administration joined federal and local water leaders in announcing the signing of a memorandum of understanding¹⁰ that advances integrated efforts to improve ecosystem and fisheries health within the Sacramento-San Joaquin Bay-Delta. State and federal agencies also announced an agreement¹¹ specifically with the Sacramento River Settlement Contractors on an approach for 2022 water operations on the Sacramento River.

Both announcements represent a potential revival of progress toward what has been known as “Voluntary Agreements,” an approach the Authority believes is superior to a regulatory approach to update the Bay-Delta Water Quality Control Plan.

The broader MOU outlines terms for an eight-year program that would provide substantial new flows for the environment to help recover salmon and other native fish. The terms also support the creation of new and restored habitat for fish and wildlife, and provide significant funding for environmental improvements and water purchases, according to a joint news release from the California Natural Resources Agency and the California Environmental Protection Agency (CalEPA). Local water agency managers signing the MOU

¹⁰ Available at <https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf>

¹¹ Available at <https://calepa.ca.gov/2022/03/29/informational-statement-state-federal-agencies-and-sacramento-river-settlement-contractors-agree-on-approach-for-2022-water-operations-on-the-sacramento-river/>

have committed to bringing the terms of the MOU to their boards of directors for their endorsement and to work to settle litigation over engaged species protections in the Delta.

On June 16, the SLDMWA, Friant Water Authority and Tehama Colusa Canal Authority signed onto the VA MOU. Additionally, since that time, in September and November, four more agencies – Contra Costa Water District, San Francisco Public Utilities Commission (SFPUC), Turlock Irrigation District (TID) and Modesto Irrigation District (MID) – have signed onto the VA MOU.

Work continues to develop the working documents associated with execution and implementation of the VA's and workgroups for participating agencies have been formed, with the recent formation of a VA Science Workgroup to develop the framework of the VA's proposed Science program.

San Joaquin River Restoration Program

2023 Restoration Flows

On January 19, Reclamation issued the [initial allocation](#) for the 2023 water year, providing a total 556,542 acre-feet for Restoration Flows under a Wet year type. The Restoration Administrator, an independent body stipulated by the Settlement, has provided the initial Restoration Flow schedule. This schedule is now approved by Reclamation as being consistent with the Settlement, Restoration Flow Guidelines, and applicable water rights.

This schedule includes adjustments to Friant Dam releases to the San Joaquin River in February followed by gradually rising flows through the spring using available channel capacity. Restoration Flows decline in the summer but typically maintain connectivity throughout the Restoration Area. Restoration Flows increase again in autumn into winter to support salmon reproduction, incubation, and juvenile fry emergence.

The Restoration Allocation will be updated several times between now and May and, in response, the Restoration Administrator may adjust flows or add additional features to the hydrograph such as pulses or ramp-downs.

From January 3 through February 5, Friant Dam released flood management flows to the San Joaquin River as required to mitigate flood risk. On February 6, Restoration Flows began and will continue until flood releases resume again in one to two months.

As river levels may change rapidly, the public is encouraged to monitor flow conditions if recreating on or near the San Joaquin River. Natural storm runoff, the need to release additional water to mitigate flood, and changes to the Restoration Flow schedule may occur at any time. **Strong river flows and the effects of cold water should not be underestimated.**

The Restoration Flow schedule has been set to the following:

Date	Friant Dam Releases	Flows Rate at Gravelly Ford
February 10 – February 28	480 – 600 cfs as required to meet the flow target at Gravelly Ford	380 cfs

March 1 – March 31	Approximately 560 cfs	380 cfs
April 1 – April 30	Approximately 600 cfs	390 cfs
May 1 – May 21	Approximately 640 cfs	400 cfs
May 22 – May 31	Decreasing to approximately 440 cfs	Decreasing to 180 cfs
June 1 – July 29	Approximately 460 cfs	180 cfs
July 30 – October 31	Approximately 480 cfs	200 cfs
November 1 – December 31	Approximately 440 cfs	240 cfs
January 1 – February 6, 2024	Approximately 420 cfs	240 cfs
February 7 – February 29, 2024	Approximately 490 cfs	310 cfs

To view the Restoration Administrator Flow Recommendation, please visit https://www.restoresjr.net/?wpfb_dl=2713. For Information about Restoration Flows, please visit <http://www.restoresjr.net/restoration-goal/restoration-flows/>. For the Restoration Administrator recommendations, please visit <http://www.restoresjr.net/documentsreports/ra-recommendations/>.

2023 Science and Engineering Meeting

The 2023 Science and Engineering Meeting will be held on May 2-3, from 8:30 am – 5:00 pm at the San Joaquin River Parkway and Conservation Trust. The meeting is free and open to the public and topics will include: Key Projects, Basin Hydrology and Restoration Flows, Fish Passage and Screening, Salmon Genetics, Subsidence, Fisheries Monitoring, and more.

Delta Conveyance

The Department of Water Resources (DWR) has committed to advancing further environmental planning and permitting activities, as well as public outreach and engagement, in 2023.

To help navigate the various permitting and regulatory compliance processes the project must complete prior to approval and/or implementation, DWR prepared a roadmap¹² that outlines the major processes required for the Delta Conveyance Project.

The U.S. Army Corps of Engineers (USACE) issued a Draft EIS for the Delta Conveyance Project on December 16, 2022 for public review. This is a separate document and review process from DWR's Draft

¹² Available at https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Public-Information/DCP_PlanningProcess_Roadmap_Jan2023_Final.pdf

EIR public review process, and both are now closed. The document is available [here](#). The Authority submitted a comment letter¹³ on the draft EIS.

U.S. Bureau of Reclamation

Reclamation Manual

Documents out for Comment

Draft Policy

- There are currently no Draft Policies out for review.

Draft Directives and Standards

- [CMP 11-04, Real Property and Reporting CMP](#) (comments due by 4/21/2023)

Draft Facilities Instructions, Standards, and Techniques (FIST)

- There are currently no Facilities Instructions, Standards, and Techniques out for review.

Draft Reclamation Safety and Health Standards (RSHS)

- There are currently no Safety and Health Standards out for review.

Draft Reclamation Design Standards

- There are currently no Design Standards out for review.

San Joaquin Valley Water Blueprint

The Blueprint Board met on February 15, approving the execution of a contract with the Hallmark Group for association management services and authorizing the Communications Committee to work with the Advocacy Committee to develop a Communications Plan to guide communications for the organization.

Committees

Executive/Budget/Personnel

Hallmark began its management/executive services March 1st and Providence will be assisting with the transition. The Board placed an initial cap on expenditures until a progress report is provided and additional approval for the Tasks are voted on. Hallmark has requested the Board identify 3 specific priorities to be pursued and accomplished.

Advocacy/Communications

Communications committee is utilizing its operation plan for creating and disseminating Blueprint communications. Advocacy committee is meeting and establishing a list of priorities and plan for future Advocacy and will coordinate with the Communications committee.

Activities

Large Group Meeting

The Blueprint held a Large Group meeting on March 15th at the Tulare Ag Center (Approx. 100 attended). Speakers included Ellen Hanak, vice president and director of the PPIC Water Policy Center, who presented their policy brief “The Future of Agriculture in the SJV”; Senator Melissa Hurtado spoke virtually about her

¹³ See Appendix A

priorities and efforts on water, and Michelle Canales, policy analyst for Senator Caballero spoke virtually. Congressman Jim Costa also attended and spoke to the group.

SJV/Delta Water Leaders' Summit

Blueprint coordinated and invited a select group of agricultural and water leaders from the San Joaquin Valley and the Delta region to meet and tour the Delta and SJ Valley. Due to the high flood risk in the Delta, the Planning Committee rescheduled the Summit meetings to ensure that full attention is given to protecting life and property. Because of the unknown timeframe of the flood risk, we will reschedule the Summit meetings for later this year, perhaps after harvest. The purpose of this gathering is to foster a better understanding of the challenges each region faces and open a line of communication to discuss collective thoughts about the future of water and agriculture.

Drinking Water Feasibility Study - CSU Fresno State, FWA, Self-Help, Sustainable Conservation

The partners for the feasibility study are focused on reviewing study criteria for recharge projects in Fresno County encompassing the Friant Place of Use boundaries. FID, TID & SWID have contributed details about ongoing recharge projects. The group is focused on multi-benefits for recharge with a focus on drinking water with measurable results.

San Joaquin Valley Water Collaborative Action Program (SJVW CAP)

The CAP Plenary Group met on February 28 and approved the formation of work groups to advance the revised Term Sheet¹⁴, adopted on November 22, 2022. Work groups will be meeting to discuss several key topics listed in the Term Sheet and create near term actions and priorities. No official schedule has been set for work group meetings so look for future communications from CAP for updates.

Steering Committee members continue to meet to discuss the proposed budget and work with Reclamation regarding the requested funding.

¹⁴ Request from Authority staff

APPENDIX A



Westlands Water District

March 16, 2023

VIA Electronic Mail

Zachary Simmons, Project Manager
US Army Corps of Engineers, Sacramento District
DLL-DCP-EIS@usace.army.mil

Re: Public Notice SPK-2019-00899: Draft Environmental Impact Statement for the Delta Conveyance Project

Dear Mr. Simmons:

The San Luis & Delta-Mendota Water Authority and Westlands Water District appreciate the opportunity to comment on the Draft Environmental Impact Statement ("Draft EIS") prepared by the U.S. Army Corps of Engineers pursuant to the National Environmental Policy Act ("NEPA") for the proposed Delta Conveyance Project ("Project") (Public Notice SPK-2019-00899). SLDMWA and Westlands provide three comments.

1. The Draft EIS emphasizes that the California Department of Water Resources ("DWR") is proposing the Project to restore and protect the reliability of State Water Project ("SWP") water deliveries by modernizing SWP infrastructure in the Delta. (Draft EIS, p. ES-1.) In its description of the Project's needs and objectives, the Draft EIS informs the decision makers and public that the Project would further the Project's purpose by providing operational flexibility to respond to sea level rise and climate change, potential water supply disruption due to seismic events, and aquatic conditions in the Delta. (*Ibid.*) The Draft EIS acknowledges the coordinated nature of SWP and Central Valley Project ("CVP") operations and, as a result, the fact that the Project and its objectives may bear relevance to the SWP and CVP. (See, e.g., *id.* at pp. 3.18-1–3.18-4.) It is thus appropriate for the final EIS to recognize that the resilience and adaptation benefits of the Project may also restore operational flexibility for the CVP as a result of a coordinated component, involving both the SWP and CVP, of the evolving suite of federal, state, regional, and local strategies needed to protect and ensure a safe and adequate water supply for California.

2. Participation in the Project by the United States Bureau of Reclamation ("Reclamation"), operator of the CVP, or by any of the water agencies that contract with Reclamation for CVP water ("CVP contractors") remains uncertain at this time. Nonetheless, SLDMWA and Westlands

support the Draft EIS's approach to the environmental analysis of the Project as set forth in "Chapter 3: Affected Environment and Environmental Consequences," which includes the CVP in its analysis of environmental consequences. (See, e.g., Draft EIS, pp. 3.18-1–3.18-4, 3.22-1–3.22-3.)

The Draft EIS explicitly incorporates DWR's Delta Conveyance Project Draft Environmental Impact Report ("Draft EIR"), including its "detailed project description of nine project alternatives and a no-project alternative...." (Draft EIS, p. 2-1.) Both Alternatives 2a and 4a studied in the Draft EIR provide a comparison of impacts and potential benefits of CVP involvement in the Project, either through coordinated involvement by Reclamation, as a cooperating agency, or through engagement from individual CVP contractors. (Draft EIR, pp. 4-16–4-17.) Alternatives 2a and 4a describe potential CVP participation as a result of constructing and operating infrastructure linking the Project to the Jones Pumping Plant, allowing Reclamation to use 1,500 cubic feet per second ("cfs") of the total Project capacity of 7,500 cfs. (*Ibid.*; see *id.* at pp. 3-7, 3-9, 3-14, 3-27, 3-39, 3-41–3-42, 3-80–3-86, 3-104–3-115.) In addition, although DWR's Preferred Alternative—Bethany Reservoir Alignment, 6,000 cfs, Intakes B and C—does not include CVP participation, the analysis shows that potential impacts disclosed for this alternative would not change in any appreciable way with CVP involvement. (Draft EIR, pp. 4-17, see *id.* at pp. 3-116–3-133; Draft EIS, p. 2-52–2-60.)

It is important to note that, if Alternative 2a, 4a, or DWR's Preferred Alternative was implemented with CVP participation, water made available from the Project to CVP contractors would not result in new or more severe environmental impacts than those already analyzed, as reflected in the evaluation of growth inducing effects. (Draft EIR, p. 31-1; see *id.* at pp. 31-7–31-10; Draft EIS, p. 4-3.)

The above-noted approaches in the Draft EIS should be maintained in the final EIS.

3. Consistent with the DWR's stated needs and objectives of the Project, as noted above, the final EIS should make clear that the Project was developed and will be implemented to avoid or fully mitigate any potential adverse impacts to the CVP and CVP contractors, such as water supply reductions, changes to the timing when water is made available, or increases in the cost of water made available.

Thank you for your consideration of these comments.

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Very truly yours,

San Luis & Delta-Mendota Water Authority

Westlands Water District

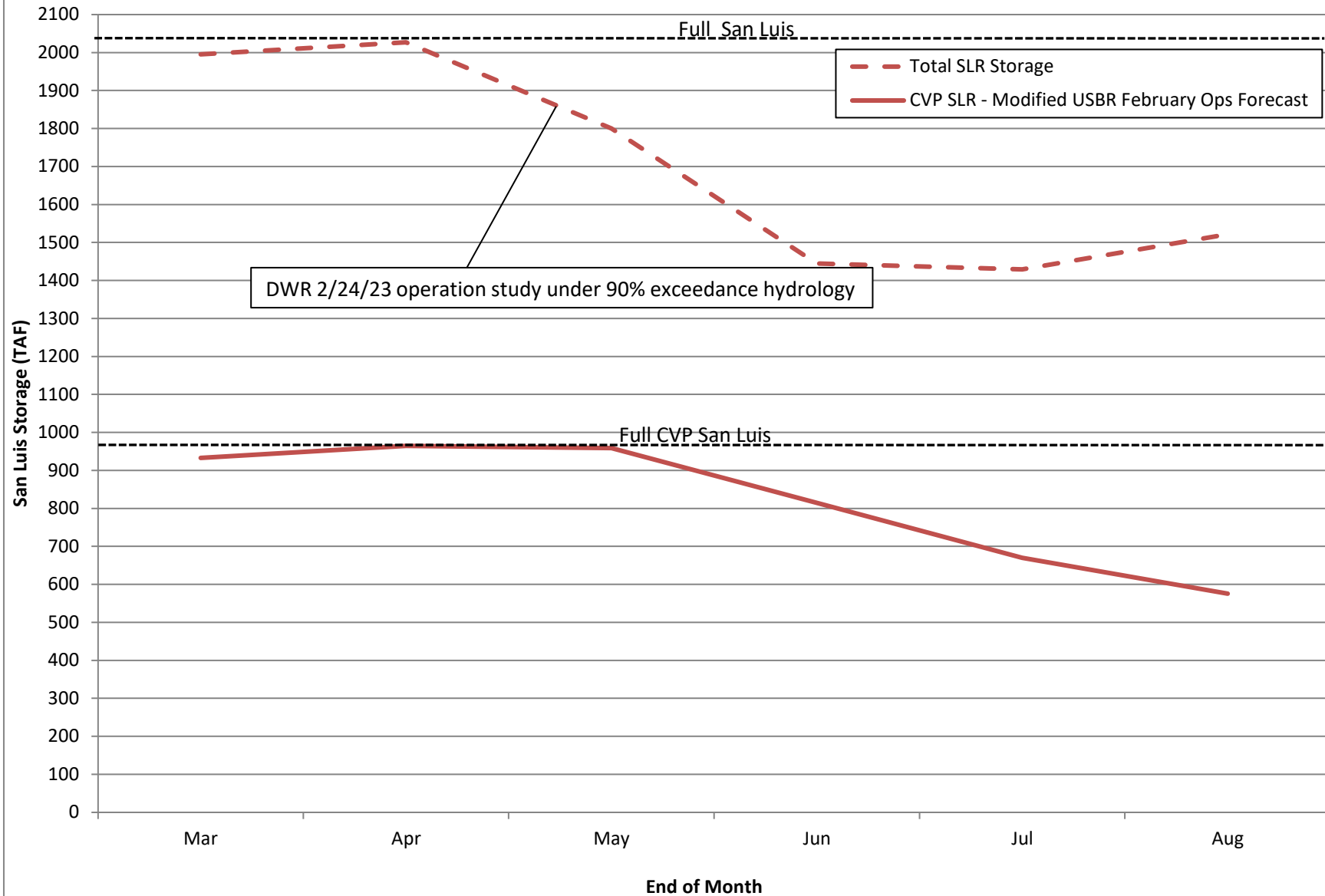


J. Scott Petersen
Water Policy Director



Jon D. Rubin
Assistant General Manager & General Counsel

2022-23 San Luis Storage Projection 90% Exceedance Hydrology



2022-23 San Luis Storage Projection 50% Exceedance Hydrology

