

ASSEMBLY THIRD READING  
AB 2248 (Eduardo Garcia and Ward)  
As Amended March 24, 2022  
Majority vote

## SUMMARY

Provides one hundred million dollars to the California Environmental Protection Agency (CalEPA) from the state's General Fund, upon appropriation by the Legislature, to address water quality problems from the rivers that flow across the border from Mexico.

## Major Provisions

## COMMENTS

*Tijuana River Watershed:* The Tijuana River Watershed is an approximately 1,700-square mile area that straddles the United States (U.S.)/Mexico border. While nearly three-quarters of the watershed is located in Mexico, it drains to the Pacific Ocean through the eight-square mile Tijuana River Valley (Valley) north of the border. The Valley is home to tidally flushed wetland, riparian, and upland habitats supporting a broad range of organisms, including threatened and endangered species, and includes a number of federally listed historical and archaeological sites.

Rapid urbanization has occurred over the past several decades, most dramatically in the city of Tijuana where more than 2.7 million people currently reside. Several large dams (Barrett and Morena in the U.S., and Rodríguez and El Carrizo in Mexico) control a large majority of the surface water flow in the watershed. While these dams provide reservoirs of potable water to support residents and associated infrastructure on both sides of the border, they also serve as traps for the downstream movement of sediment and trash to the lower watershed. The sediment and trash produced in the 462-square mile area downstream of the dams cause water quality impairments, threaten life and property from flooding, degrade valuable habitats, and impact recreational opportunities for residents and visitors.

*International Boundary and Water Commission (IBWC):* Bi-national concerns about Tijuana River water quality date back to 1934, when the United States and Mexican governments instructed the International Boundary Commission (predecessor to IBWC) to prepare a report on the Tijuana sewage problem. When the United States and Mexico signed the Water Treaty of 1944, Article III made the use of cross-border waters subject to "sanitary measures or works." The two governments also agreed to give preferential attention to the solution of all border sanitation problems.

In light of continued cross-border sanitation issues, the U.S. and Mexico created a binational interagency "Clean Water Partnership." In 1990, IBWC approved Minute No. 283, to authorize construction of a treatment plant on the Tijuana River, north of the border, called the South Bay International Water Treatment Plant. This treatment plant has current capability of treating 25 million gallons per day (MGD), but has an expansion capability of up to 100 MGD. Once treated, water from the plant flows through a 4.5-mile, 11-foot pipe leading to the South Bay Ocean Outfall. Expanding the treatment capability of this treatment plant is an example of what could be funded under this bill.

*Recent Developments on the Tijuana River:* Water quality in the Tijuana River has deteriorated significantly in recent years. As the *San Diego Union-Tribune* reported last year, Tijuana River water pollution required closing of beaches north of the border on 295 days in 2020.

Deteriorating water quality has led to both conflict and increased effort to address water quality in the Tijuana River.

*New River:* The New River runs through Mexicali, Baja California, and Calexico, California into the Salton Sea. For decades, this Imperial County river has been characterized as one of the most polluted rivers in the United States and remains one of the largest public health issues in the county.

*California Legislature's Work on Border River Water Quality:* The California Legislature has been considering and addressing water quality in its border rivers (Tijuana River and New River) for the last 20 years, as water quality issues have evolved. It has passed bills to require state agency projects to improve water quality and has held informational hearings on the work of all those who strive to improve border river water quality.

The Legislature's budget committees have also reviewed programs and projects on border river water quality. State budgets since 2017 have included appropriations for border river water quality as follows:

- 1) 2017: Reappropriated \$2.1 million from a 2014 California Wildlife, Coastal and Park Land Conservation Fund of 1988 for acquisition of lands in the Tijuana River Valley.
- 2) 2019: Appropriated \$15 million for Tijuana River pollution control.
- 3) 2020: Appropriated \$18 million from the General Fund and \$10 million from Proposition 68 water bond funds for the New River Project.
- 4) 2021: Appropriated \$20 million to improve water quality in border rivers.

*U.S.-Mexico-Canada Agreement:* When Congress approved the US-Mexico-Canada Agreement in 2019, California Congressional representatives succeeded in adding \$300 million to identify infrastructure solutions to address water pollution in cross-border rivers. In 2020, the U.S. government committed the funding to the U.S. Environmental Protection Agency (U.S. EPA) to be used to address Tijuana River water quality problems. In November 2021, U.S. Ambassador Ken Salazar and U.S. EPA Administrator Michael S. Regan met with Mexican officials and stakeholders at the Tijuana border to discuss the results of the U.S. EPA's alternatives analysis for solutions to Tijuana River water quality issues. The results outlined a plan to address water quality on both sides of the border, throughout the watershed. The plan identifies an estimated capital cost of approximately \$627 million and approximately \$25 million for operations and maintenance.

*Opportunity for improvements to the New River and Tijuana River:* Over the past several years the Legislature has appropriated small chunks of funding for specific purposes, some for the New River and some for the Tijuana River. This bill proposes to appropriate a larger fund with the goal of taking a more holistic approach to addressing the watersheds near the U.S./Mexico border, rather than pursuing incremental progress.

**According to the Author**

"In order to advance on the commitments the state has made and build off of the funding we have already committed to the Tijuana and New Rivers, we need to provide a substantive commitment to improving the water quality coming from our border region into our communities for years to come. While we will continue to work with our partners in Mexico, we need to ensure that we are not jeopardizing public health and are able to fully tackle the problem through infrastructure investments in our own backyard."

**Arguments in Support**

According to the Surfrider Foundation, "Surfrider is in strong support of AB 2248 because it addresses water quality in California Mexico Rivers which affects public health, coastal recreation, and unique wetland habitat in California and Baja. Beaches in San Diego are closed more than two thirds of the year regularly (including in 2021) as they are considered unsafe for recreating by Environmental Protection Agency standards for 'safe' coastal recreation. Extreme pollution in places like Goat Canyon mean that areas near border rivers are so toxic that our volunteers used to wear protective suits to conduct cleanups and now often don't even try to clean these areas because volunteers were frequently getting sick. Additionally, U.S. Border Patrol and Navy conduct patrols and training in contaminated environments that put agents and sailors at risk. We urge the Assembly to pass AB 2248 in advance of public health and coastal recreation needs near the border."

**Arguments in Opposition**

None on file.

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee, enactment of this bill could lead to cost pressure of \$100 million to the General Fund and potential administration costs for the State Water Resources Control Board of approximately \$1-2 million annually.

**VOTES****ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 9-0-0**

**YES:** Quirk, Smith, Arambula, Bauer-Kahan, Cristina Garcia, Holden, Mathis, Muratsuchi, Waldron

**ASM WATER, PARKS, AND WILDLIFE: 15-0-0**

**YES:** Megan Dahle, Nazarian, Bennett, Bigelow, Friedman, Cristina Garcia, Kalra, Levine, Muratsuchi, Nguyen, Blanca Rubio, Salas, Smith, Villapudua, Ward

**ASM APPROPRIATIONS: 16-0-0**

**YES:** Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

**UPDATED**

VERSION: March 24, 2022

CONSULTANT: Josh Tooker / E.S. & T.M. / (916) 319-3965

FN: 0002484