

GOVERNOR'S VETO

AB 2248 (Eduardo Garcia and Ward)

As Enrolled September 1, 2022

2/3 vote

SUMMARY

Provides one hundred million dollars to the State Water Resources Control Board (State Water Board) from the state's General Fund, upon appropriation by the Legislature in the annual Budget Act or another statute, for grants and direct expenditures to address water quality problems arising in California-Mexico cross-border rivers.

Senate Amendments

- 1) Replace the California Environmental Protection Agency (CalEPA) with the State Water Board as the entity that will receive the funds and address water quality problems arising in California-Mexico cross-border rivers.
- 2) Delete the requirement that the one hundred million dollars be split evenly between the New River and the Tijuana River and instead provide that the funding is available for projects consistent with existing law for the New River and for water quality projects for the Tijuana River.
- 3) Specify that the State Water Board and the Office of the Attorney General shall each receive five percent of the funding appropriated in the budget, to address water quality problems from cross-border rivers, for their administrative costs.
- 4) Require the State Water Board, in consultation with CalEPA, the San Diego Regional Water Quality Control Board, and the Colorado River Basin Regional Water Quality Control Board, in administering the funds received to address California-Mexico cross-border rivers, to develop grant guidelines, project prioritization, and monitoring requirements.
- 5) Require expenditures of the funding provided pursuant to this bill to be consistent with the work of the CalEPA Border Affairs Program.
- 6) Authorize any funding provided pursuant to this bill for activities or projects in the State of Baja California through direct expenditures and grants to an eligible funding recipient authorized to work in Mexico.
- 7) Provide that the authority to enforce the terms of funding agreements entered into pursuant to this bill is expressly reserved for the Office of the Attorney General.
- 8) Require the State Water Board and CalEPA to notify the leadership office in each house of the Legislature on cross-border collaboration and the expenditure of the funding available pursuant to this bill.
- 9) Add co-authors.

Governor's Veto Message

This bill makes \$100 million General Fund available to the State Water Resources Control Board, upon appropriation, for grants and expenditures to address water quality problems in the New River and the Tijuana River watersheds at the California-Mexico border. The 2021 Budget Act included \$20 million, and the 2022 Budget Act included \$15 million in funding for this use, all of which has not yet been expended.

My Administration remains committed to addressing water quality and environmental equity issues at cross-border rivers, which is why I have supported funding this work. However, with our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined. Additional funding should be considered as part of the annual budget process.

The Legislature sent measures with potential costs of well over \$20 billion in one-time spending commitments and more than \$10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process. For these reasons, I cannot sign this bill.

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.

International Boundary and Water Commission (IBWC): Established in 1889, the IBWC has responsibility for applying the boundary and water treaties between the U.S. and Mexico and settling differences that may arise in their application. The IBWC is an international body composed of the United States Section and the Mexican Section, each headed by an Engineer-Commissioner appointed by his/her respective president. Each Section is administered independently of the other.

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 1990, the IBWC authorized 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 capacity of treating 25 million gallons per day (MGD), but has an expansion capacity 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 capacity 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.

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 cross border water quality 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

No opposition received.

FISCAL COMMENTS

According to the Senate Appropriations Committee, enactment of this bill could lead to cost pressures of \$100 million for the Legislature to provide an appropriation to the State Water Board. Of this amount, the State Water Board estimates costs of up to \$2.475 million for State Water Board and the Regional Water Boards efforts to administer the fund and provide project oversight.

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

ASSEMBLY FLOOR: 74-0-4

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

ABS, ABST OR NV: Berman, Mia Bonta, O'Donnell, Blanca Rubio

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Cortese

ASSEMBLY FLOOR: 79-0-1

YES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas,

Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward,
Akilah Weber, Wicks, Wilson, Wood, Rendon
ABS, ABST OR NV: Irwin

UPDATED

VERSION: September 1, 2022

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

FN: 0004596