

## CONCURRENCE IN SENATE AMENDMENTS

AB 2895 (Arambula)

As Amended August 22, 2022

Majority vote

**SUMMARY**

Creates a "pre-notice" process for short-term water transfers (i.e., for a period of one year or less) to expedite approval, revises the State Water Resources Control Board's (State Water Board) existing process for consideration and approval of a short-term water transfer, and eliminates the requirement that notices of short-term water transfers be published in a newspaper of general circulation.

**Senate Amendments**

- 1) Reinstate a timeline of 10 days (rather than 15) under existing law for the State Water Board to commence an investigation of a petition for a short-term water transfer.
- 2) Reinstate a timeline of 35 days (rather than 55) under existing law for the State Water Board to render a decision on a petition for a short-term water transfer.
- 3) Provide that if the State Water Board holds a hearing on a petition for a short-term water transfer, it shall issue a decision on the matter within 60 days of the hearing. Permit the State Water Board to extend the 60-day timeline with consent of the petitioner.
- 4) Delete a requirement that a petition for a short-term water transfer include documentation of consultation with the Department of Fish and Wildlife.
- 5) Make technical and conforming changes.

**COMMENTS**

This bill makes minor changes to the current process for a short-term water transfer (for a period of one year or less) and creates an optional process whereby water right holders may submit a notice to the State Water Board by January 31st indicating that they are considering a short-term water transfer. This "pre-notice" process is intended to help expedite review of short-term transfers and signal to potential transferees that water may be available via a short-term transfer. This bill deletes a requirement under existing law that requires that notice of a petition for a short-term transfer be published in not less than one newspaper of general circulation; however, the requirement that notice of a petition be published on the State Water Board's internet website remains intact.

Water transfers involve the exchange between a water right holder with surplus water and a party that needs additional water. According to the State Water Board's draft "Guide to Water Transfers" (July 1999), "water transfers are a permanent and necessary part of California's water picture. State law supports voluntary transfers, and directs state agencies to encourage and facilitate voluntary transfers in a manner that protects existing water uses including providing technical assistance to implement water conservation measures which will make additional water available for transfers." Water transfers can come in various forms and durations; California law recognizes four types of water transfer that are each governed by a different set of rules: 1) temporary urgency change (180 days or less); 2) permanent change; 3) temporary change (one

year or less); and 4) long-term transfer (greater than one year). This bill addresses the third type, a temporary change or short-term water transfer.

The current process for a short-term water transfer requires the State Water Board to issue a decision within 65 days. This timeline can pose an administrative burden on the State Water Board and divert staff resources away from other priorities if several petitions are filed within a short time frame; on the other hand this 65-day time period provides certainty for the parties involved in a water transfer, one of which may have a pressing need for the additional water proposed for transfer. Per the draft "Guide to Water Transfers" (July 1999), "many short-term transfers need rapid approval because they take advantage of specific water supply or water needs that develop in a given year and can be transient in nature."

### **According to the Author**

"As California's climate becomes more extreme, water transfers are effective means to provide drought resiliency throughout the state. Efficient review and approval by the State Water Board are needed to ensure that water transfers can be successfully executed. Unfortunately, current requirements for processing temporary transfer petitions cause delays both for the petitioner and Water Board. AB 2895 will allow California to adapt to evolving drought conditions more effectively by modernizing and streamlining the water transfer petition process. This bill also improves communication between impacted agencies and increases accessibility of transfer petition information by the public."

### **Arguments in Support**

Sustainable Conservation supports this bill asserting that water transfers are an important tool and are necessary so that water managers can adapt to a changed climate that is causing more frequent and intense droughts and a reduction in snowpack. Sustainable Conservation argues this bill will modernize the water transfer process to reflect the digital era and encourage more coordination between state agencies and the parties involved in a transfer.

### **Arguments in Opposition**

The California News Publishers Association (CNPA) and California Black Media (CBM) have taken an "oppose unless amended" position on this bill seeking an amendment to reinstate the requirement that notices of short-term water transfers be published in a newspaper of general circulation. CNPA and CBM argue that "newspaper public notices constitute a forum that is independent of the government" and, that by deleting this requirement, this bill limits freedom of information. Furthermore, CNPA and CBM assert that by deleting the newspaper public notice requirement for short-term transfers, this bill sets a dangerous precedent as "newspapers of general circulation remain the most effective means to convey public notices because they are legally deemed to reach a 'substantial' number of readers in the area." Finally, CNPA and CBM maintain that "public notice newspaper advertising is an extension of journalism that protects the authenticity of and access [to] (sic) public information."

## **FISCAL COMMENTS**

This bill was referred out of the Senate Appropriations Committee without a hearing pursuant to Senate Rule 28.8 because this bill does not result in significant state costs, require an appropriation of state funds, nor cause a significant reduction in state revenues.

**VOTES:****ASM WATER, PARKS, AND WILDLIFE: 11-0-4**

**YES:** Nazarian, Bennett, Friedman, Cristina Garcia, Kalra, Levine, Muratsuchi, Blanca Rubio, Salas, Villapudua, Ward

**ABS, ABST OR NV:** Megan Dahle, Bigelow, Nguyen, Smith

**ASM APPROPRIATIONS: 12-2-2**

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

**NO:** Megan Dahle, Davies

**ABS, ABST OR NV:** Bigelow, Fong

**ASSEMBLY FLOOR: 50-19-9**

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

**NO:** Bigelow, Chen, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

**ABS, ABST OR NV:** Berman, Choi, Cooper, Daly, Grayson, Lackey, Mayes, O'Donnell, Villapudua

**SENATE FLOOR: 38-0-2**

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

**ABS, ABST OR NV:** Hurtado, Kamlager

**UPDATED**

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