

CONCURRENCE IN SENATE AMENDMENTS

AB 1466 (Hart)

As Amended September 4, 2025

Majority vote

SUMMARY

Permits a court, in actions to adjudicate groundwater rights, to exempt or treat separately claimants who extract or divert minor quantities of water; requires a party's initial disclosure to additionally include information relating to agricultural use; and requires a court to request the groundwater sustainability agency (GSA) provide a technical report that quantifies and describes the groundwater uses of parties that have not otherwise appeared before the court.

Senate Amendments

- 1) Permit a court in a comprehensive groundwater adjudication to process and enter judgments separately for parties that claim a right to pump "minor quantities of water" [i.e., five acre-feet (AF) or less annually] in order to reduce the burden of participation on those parties and more efficiently administer the case.
- 2) Require a court in a comprehensive groundwater adjudication to, once the notice of commencement of the groundwater adjudication has been sent to potential water right claimants, hold a hearing to determine whether to exempt or treat separately parties that claim a right to pump "minor quantities of water." If the court exempts or treats parties that claim minor quantities of water separately, it shall establish a procedure to register such claims.
- 3) Require the initial disclosure required of parties that appear in a comprehensive adjudication to also include, if the groundwater was used for agricultural use, the type of crops grown and the number of acres irrigated during the previous ten years.
- 4) Provide that the court shall presume the facts in a party's initial disclosure in a groundwater adjudication are accurate if the party claims to pump less than an average of 100 AF annually or an average amount of water that the court deems reasonable. A party challenging the accuracy of these facts shall bear the burden of proof.
- 5) Delete a provision stating a party challenging an action of a GSA in a groundwater adjudication bears the burden of proof.
- 6) Make technical and conforming changes.

COMMENTS

Groundwater is a critical source of supply that meets roughly 40% of water demand in an average year and more than 60% during drought years. "Percolating groundwater" is how the vast majority of groundwater is categorized under California law and groundwater users (pumpers) are not required to obtain a permit or license to use it. There are three types of rights to percolating groundwater: overlying, appropriative, and prescriptive. As it relates to overlying rights California has, to a degree, adopted the English Common Law notion that whoever owns the soil owns the depths; however, as early as 1903, California courts recognized that this state's climate does not lend itself to a pure application of the common law [*Katz v. Walkinshaw* (1903)]

141 Cal. 116]. The *Katz* court recognized that scarcity is a critical element of California water law and that when a groundwater basin cannot support the needs of all water users each user is entitled to a "fair and just" proportion of the water supply (*Id.* at 134). Appropriative rights apply to surplus groundwater drawn from a basin but not utilized on the overlying land. In this scenario, the court provides that "first in time first in right" approach applies to determining water rights [*City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224, 1241]. Finally, prescriptive rights are established by showing an adverse use against prior rights holders. These rights are most commonly held by municipal water agencies who pump groundwater for use outside the overlying basin. Because many of the groundwater basins utilized by municipal pumpers are overdrawn, and thus by definition no surplus water exists, the municipalities' rights are considered "adverse" to other rights holders. [See, *City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 299-300.]

A comprehensive groundwater adjudication is the primary method for determining groundwater rights and occurs when one or more parties file a civil action to resolve conflicts over groundwater rights. According to the Water Education Foundation, "through adjudication, the courts can assign specific water rights to water users and can compel the cooperation of those who might otherwise refuse to limit their pumping of groundwater. Watermasters are typically appointed by the court to ensure that pumping conforms to the limits defined by the adjudication." The overall limit or budget on groundwater pumping is typically referred to as "safe yield" in a settlement or judgment resulting from a groundwater adjudication. The first groundwater basin adjudicated in California was the Raymond Basin underlying the City of Pasadena. Out of 515 groundwater basins identified by the Department of Water Resources, 27 basins or sub-basins have been adjudicated. These are predominantly in urban and suburban parts of Southern California.

State law gives every overlying property owner a potential right in an unadjudicated groundwater basin. As such, determining who has groundwater rights that could be affected by an adjudication and the scope of those rights is difficult and can be a lengthy process; adjudications typically take more than a decade to resolve. Identifying and noticing every party that may have a right, completing technical work, sorting through disagreements over this technical work, and determining historic groundwater use, which could affect the scope of one's rights, are all factors that can increase the time and expense of an adjudication. In an attempt to streamline the groundwater adjudication process, SB 226 (Pavley) and AB 1390 (Alejo) were enacted in 2015. There are five pending comprehensive groundwater adjudications at present.

This bill seeks to address the equity concerns raised by the burden of adjudicating water rights on smaller farmers and pumpers. Small farmers and under-resourced community members often lack the time and resources to hire lawyers, participate in proceedings, or track down court documents to stay updated on the process.

According to the Author

"[This bill] streamlines groundwater adjudications, reduces unnecessary litigation costs, and protects small and disadvantaged water users from being caught up in costly legal battles. The bill allows small and disadvantaged water users—whose pumping does not substantially impact the basin—to request an exemption from the full adjudication process. It also requires the local [GSA] to report on water use by all pumpers in the basin, helping ensure that small and disadvantaged communities are represented throughout the adjudication. By improving the

fairness of groundwater adjudications, [this bill] strengthens California's efforts to sustainably manage its groundwater resources while safeguarding the rights of vulnerable water users.

Arguments in Support

The Community Alliance with Family Farmers (CAFF) supports this bill and argues: "[This bill] will place the burden of proof on parties that seek to challenge the findings of a [GSA] a comprehensive adjudication. We are concerned that large-scale farming interests have at times filed for adjudication when the process at their local GSA has resulted in lower pumping than they would prefer, and so they aim to achieve a better deal in court. We support requiring the burden of proof be upon those who seek to file an adjudication. We are also heartened by the ways that this bill could support small farms navigating adjudications, since the current structure makes it extremely challenging for them. CAFF is actively working on education and outreach to small farmers about Sustainable Groundwater Management Action (SGMA) around the state, since many small farmers still lack a clear understanding of what SGMA is or how it could impact their water use. This is doubly challenging in basins facing an adjudication: many farmers don't understand adjudication notices. Once a trial is underway, the cost of an attorney is prohibitive for many small farms and rural residents, and they are not usually available to travel to a distant court outside their county."

Arguments in Opposition

The California Chamber of Commerce opposes this bill and maintains "this measure still requires GSAs within a basin being adjudicated to provide courts with a technical report that, at a minimum, 'quantifies and describes the groundwater use of parties that have not otherwise appeared before the court.' This would place a substantial burden on GSAs and would likely distract them from their primary mission of groundwater management. We are also concerned that the language appears to be a stand in for a pumper who does not respond (for whatever reason) to the notice of an adjudication, even though the current version of the bill provides a streamlined path for a small pumper to fill out a form, submit it to the court, and then remain on the sidelines of the comprehensive adjudication while retaining their water right. If the report does operate as a stand in for pumpers, this presents other issues for GSAs. Specifically, GSAs may (and depending on the composition of the board, most likely would) have a conflict of interest and therefore would be legally and ethically unable to represent the interests of other pumpers in an adjudication. Groundwater pumpers have to make themselves known in some way to the court in order to be addressed in the adjudication: either by express exemption or by inclusion in the final judgment."

FISCAL COMMENTS

The Assembly Appropriations Committee indicates that the version passed by the Assembly would have resulted in "minor and absorbable costs to the courts." The Senate Appropriations Committee did not hear this bill and, instead, reported it to the Senate Floor pursuant to Senate Rule 28.8; indicating this bill does not appropriate money, does not result in significant state costs or require the appropriation of funds, and will cause no significant reduction in revenues.

VOTES:

ASM WATER, PARKS, AND WILDLIFE: 9-4-0

YES: Papan, Alvarez, Ávila Farías, Bennett, Boerner, Caloza, Hart, Celeste Rodriguez, Rogers

NO: Jeff Gonzalez, Bains, Macedo, Tangipa

ASM JUDICIARY: 9-3-0

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Lee, Stefani, Zbur

NO: Dixon, Macedo, Sanchez

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Sanchez, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 50-20-9

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Hart, Irwin, Jackson, Kalra, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Celeste Rodriguez, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Ward, Wicks, Wilson, Zbur, Rivas

NO: Alanis, Bains, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

ABS, ABST OR NV: Arambula, Harabedian, Krell, Nguyen, Ramos, Michelle Rodriguez, Blanca Rubio, Soria, Valencia

UPDATED

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