

SENATE RULES COMMITTEE

Office of Senate Floor Analyses

(916) 651-4171

THIRD READING

Bill No: AB 2218
Author: Kalra (D), et al.
Amended: 7/2/26 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 5-0, 6/23/26

AYES: Becker, Allen, Cabaldon, Laird, Stern

NO VOTE RECORDED: Seyarto, Grove

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-0, 7/1/26

AYES: Blakespear, Allen, Gonzalez, Menjivar

NO VOTE RECORDED: Valladares, Dahle, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 4-0, 8/13/26

AYES: Cervantes, Cabaldon, Grayson, Richardson

NO VOTE RECORDED: Seyarto, Dahle, Wahab

ASSEMBLY FLOOR: 57-0, 5/27/26 - See last page for vote

SUBJECT: Water policy: California Native American tribes

SOURCE: Karuk Tribe

Shingle Springs Band of Miwok Indians

DIGEST: This bill declares it statewide policy to recognize and address the wrongs inflicted upon California Native American tribes regarding certain water-related issues. Directs certain state agencies to take steps to implement this policy and establishes a mediation process to resolve disputes.

ANALYSIS:

Existing law:

- 1) Establishes the State Water Resources Control Board (SWRCB) to administer water rights, develop, adopt, and enforce water quality standards, implement safe drinking water solutions, and enforce water efficiency standards. The SWRCB can investigate all bodies of water to ascertain whether a riparian or appropriate right is valid.
- 2) Establishes the Department of Water Resources (DWR) and grants it broad authority over, and responsibilities in, California water management, including dams, flood control projects, the State Water Project, sustainable groundwater management, and the California Water Plan.
- 3) Requires the SWRCB and Regional Water Quality Control Boards (regional water boards) to identify issues of environmental justice in the planning, policy, and permitting processes. The SWRCB must, subject to an appropriation, hire environmental justice and tribal community coordinator experts to meet environmental justice goals and objectives, promote meaningful engagement in the decision-making process, inform regulations that address water quality issues that disproportionately impact disadvantaged communities, and solicit community input on projects to be listed in the regional water boards supplemental environmental project list.
- 4) Requires the SWRCB and regional water boards to make concise, programmatic findings on potential environmental justice, tribal, and racial equity considerations when adopting or amending water quality control plans or state policies for water quality control.
- 5) Requires the SWRCB to consult with various state agencies and California Native American tribes in establishing a Freshwater and Estuarine Harmful Algal Bloom Program to protect water quality and public health.
- 6) Requires DWR to adopt guidelines for Integrated Regional Watershed Management (IRWM) plans that require the planning and implementation process be public and allow appropriate local agencies and stakeholders, including Native American tribes with lands in the region, to participate.
- 7) Encourages state agencies to consult on a government-to-government basis with federally recognized tribes, and to consult with non-federally recognized tribes and tribal organizations, to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have tribal implications.

- 8) Defines “consultation” as the meaningful and timely processing of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty and must recognize tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.
- 9) Requires a California Environmental Quality Act (CEQA) lead agency to consult with California Native American Tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if the tribe requested notification and consultation for the project. CEQA must evaluate effects of the project on tribal cultural resources, historic resources, and unique archaeological resources as environmental impacts.

This bill:

- 1) Declares it to be the established policy of the state to recognize and address the inequities regarding access to, and control over, water caused by state-sanctioned acts of termination, removal, and assimilation inflicted on California Native American tribes through financial assistance, protection of tribal water uses, consultation on water projects, plans, and policies, and incorporation of indigenous knowledge to restore and protect ecosystems.
- 2) Requires the following state agencies to implement this policy when revising, adopting, or establishing policies, regulations, permits, or grant criteria to address identified inequities:
 - a) SWRCB;
 - b) Regional water boards;
 - c) The California Natural Resources Agency (CNRA) and all its departments, conservancies, boards, commissions, and offices;
 - d) The Delta Stewardship Council; and
 - e) The Office of Land Use and Climate Innovation (LCI).
- 3) Requires these agencies to identify and offer financial assistance to California Native American tribes consistent with existing legal and policy requirements for financial assistance programs.

- 4) Requires the SWRCB, when investigating bodies of water regarding a claimed riparian or appropriative right, to, upon request, consult with a California Native American tribe whose ancestral territory includes the water body or water bodies at issue.
- 5) Establishes a mediation process to be used in the event of a dispute between a California Native American tribe and a state agency covered by this bill. The process would be overseen by the Governor's Office of Tribal Affairs.

Background

State agencies with tribal policies. While not an exhaustive list, a number of state agencies – many of which are affected by this bill – have adopted policies to promote collaboration with California's Native American tribes. For example:

- CNRA, which oversees more than 29 departments, conservancies, and commissions, adopted its Tribal Consultation Policy in 2012 to "...provide meaningful input into the development of regulations ... and activities that may affect tribal communities."
- DWR's office of Tribal Affairs adopted a Tribal Engagement Policy in 2016 to improve collaboration and consultation with California's tribes.
- The Delta Stewardship Council adopted its Tribal Consultation Policy in 2015 to ensure effective government-to-government consultation between the Council and Native American tribes and tribal communities and to provide meaningful input into the development of regulations, rules, policies and more that may affect tribal communities.
- LCI serves as a long-range planning and research agency and is in the process of updating its Tribal Consultation Guidelines and developing a Tribal Consultation Toolkit.
- The SWRCB's Tribal Affairs Program strives to create meaningful opportunities for collaboration that respect tribal voices and contribute to a more sustainable and equitable future for all Californians.

Comments

Purpose of the bill. According to the author, "California Native American Tribes have lived on this land since time immemorial, developing a deep and comprehensive understanding of its ecological systems. This includes its watersheds, around which indigenous communities have cultivated highly diverse

cultural and culinary practices. Unfortunately, colonization, historic land seizures, and other state-sanctioned actions have deprived Tribes of the water resources and management practices that support their communities. While many state agencies, including the Department of Water Resources, have made efforts to rectify these inequities, their work remains vulnerable to legal challenges. AB 2218 addresses this issue by establishing a state policy of recognizing and addressing water-related inequities perpetrated against the Indigenous People of California, giving the state the statutory backing it needs to respectfully and effectively address generations of injustice.”

What agencies will this bill affect? In addition to the SWRCB, the 9 regional water boards, the Delta Stewardship Council, LCI, and CNRA, this bill affects ALL “departments, conservancies, boards, commissions, and councils” under CNRA.

This is a lengthy list, including:

- Eight departments such as the Department of Forestry and Fire Protection, Department of Conservation, Department of Fish and Wildlife, and the Department of Parks and Recreation;
- Ten conservancies, such as the Sacramento-San Joaquin Delta, Santa Monica Mountains, and the State Coastal conservancies;
- Twenty boards and commissions, such as the Board of Forestry and Fire Protection, California Coastal Commission, and the California Energy Commission¹; and
- Three councils, including the Biodiversity Council, Delta Stewardship Council, and the Ocean Protection Council.

What are these entities supposed to implement and how will they know when they’ve complied with the bill? This bill requires these 50+ state agencies to, when revising, adopting, or establishing policies, regulations, permits, or grant criteria, to *implement* the policy of recognizing and addressing inequities relating to water through financial assistance, protection of tribal water uses, consultation on water projects, plans, and policies, and incorporation of indigenous knowledge to restore and protect ecosystems.

However, this bill provides no specifics about how an agency should go about implementing the policy. More significantly, it is also unclear how an agency will be able to establish it has complied with the law to properly address the many

¹ Formally the State Energy Resources Conservation and Development Commission.

historical inequities that have affected California Native American tribes for decades.

Granted, because each situation is unique, it is not practical or even advisable to put a roadmap to compliance into statute to direct each agency in each situation. At the same time though, it is also accurate to note that due to the vagueness of the language, agencies will have no way of knowing when they've complied with the law.

Mandatory financial assistance? Beyond the requirement to “implement” a policy, the bill also requires each of the named state entities to “identify and offer” financial assistance to California Native American tribes. While the assistance must be “consistent with existing legal and policy requirements for financial assistance programs,” it could be interpreted to *mandate* that financial assistance be provided to these tribes, regardless of whether funding is available or if there are more qualified recipients for financial aid.

Mediation process. If there is a dispute over the implementation of the policy between a California Native American tribe and a state agency, this bill requires the Governor’s Office of Tribal Affairs (OTA) to mediate the matter. This bill established timelines that must be adhered to and allows a tribe to withdraw from the process at any time if it doesn’t believe the state agency is negotiating in good faith. This bill is silent on what happens if this administrative remedy is exhausted without a resolution, but presumably either party would be allowed to ask a court to address the matter.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee’s analysis, annual ongoing costs are estimated to be more than \$8 million.

SUPPORT: (Verified 8/6/26)

Karuk Tribe (co-source)
Shingle Springs Band of Miwok
Indians (co-source)
American River Conservancy
American Whitewater Association of
Ramaytush Ohlone
Audobon California
Azul
Bayquest

Cactustocloud Institute
California Coastkeeper Alliance
California Environmental Voters
California Institute for Biodiversity
California Native Plant Society, Alta
Peak Chapter
California Rural Indian Health Board,
Inc.

California Sportfishing Protection Alliance
California Tribal Business Alliance
California Trout Center for Environmental Health
Center on Race, Poverty & the Environment
Clean Water Action
Cleaneearth4kids.org
Coalition of California State Tribes
COFEM
Community Alliance With Family Farmers
Defenders of Wildlife
Endangered Habitats League
Environmental Defense Fund
Environmental Law Foundation
Environmental Protection Information Center
Fix the World Consulting, LLC
Friends Committee on Legislation of California
Friends of Harbors, Beaches and Parks
Friends of Plumas Wilderness
Friends of the Eel River
Friends of the Inyo
Friends of the River
Golden State Salmon Association
Greenlatinos
Humboldt Progressive Democrats
Humboldt Waterkeeper
Inland Empire Waterkeeper
Kakoon Ta Ruk Band of Ohlone-costanoan Indians of the Big Sur Rancheria Klamath Indigenous Land Trust
Latino Outdoors
Los Angeles Neighborhood Land Trust

Los Angeles Waterkeeper
Mak-warép Ohlone Land Conservancy
Mid Klamath Watershed Council
Mono Lake Committee
Monterey Waterkeeper
Mount Shasta Bioregional Ecology Center
Mountain Area Preservation
National Audubon Society
Northern California Tribal Chairperson's Association
NRDC
Nurture Nature
Orange County Coastkeeper
Outward Bound Adventures
Pesticide Action and Agroecology Network
Planning and Conservation League
Resource Renewal Institute
Restore the Delta
Ridges to Riffles Indigenous Conservation Group
RKNDL Forestry Consultation
Russian Riverkeeper
Sacred Places Institute for Indigenous Peoples
Salmon River Restoration Council
San Diego Coastkeeper
San Francisco Baykeeper
Santa Barbara Channelkeeper
Santa Ynez Band of Chumash Indians
Save California Salmon
Save the Bay
Sequoia Riverlands Trust
Shasta Waterkeeper
Sierra Club California
Sierra Nevada Alliance
South Yuba River Citizens League
Sustainable Conservation

Sustainable Tahoe
 Band of the Kumeyaay Nation
 The Nature Conservancy
 The Otter Project
 Tribal Workforce Trade Association
 Trust for Public Land
 Union of Concerned Scientists
 Water Climate Trust

Watershed Research & Training
 Center
 Wholly H2o
 Wildlands Network
 Winnemem Wintu Tribe
 Yuba River Waterkeeper
 Yurok Tribe

OPPOSITION: (Verified 8/6/26)

Association of California Water
 Agencies
 Building Owners and Managers
 Association
 CalForests
 California Building Industry
 Association
 California Business Properties
 Association
 California Chamber of Commerce
 California Farm Bureau
 California Municipal Utilities
 Association
 California Special Districts Assoc.

California State Association of
 Counties
 City of Corona
 El Dorado Irrigation District
 League of California Cities
 NAIOP California
 Northern California Water Assoc.
 Regional Water Authority
 Rural County Representatives of
 California
 Solano County Water Agency
 Valley Ag Water Coalition
 Water Blueprint for the San Joaquin
 Valley Advocacy Fund

ASSEMBLY FLOOR: 57-0, 5/27/26

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

NO VOTE RECORDED: Alanis, Bains, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Celeste Rodriguez, Blanca Rubio, Sanchez, Ta, Tangipa, Wallis

Prepared by: Evan Goldberg / N.R. & W. / (916) 651-4116
8/14/26 15:45:18

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