

Date of Hearing: March 24, 2026

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 2630 (Bennett) – As Introduced February 20, 2026

SUBJECT: Water diversion and use: adoption of regulations

SUMMARY: Provides the State Water Resources Control Board (State Water Board) with permanent emergency regulation authority for the adoption of, and updates to, regulations pertaining to the measurement and reporting of water diversion and use. Also, exempts the adoption and update of these regulations from the California Environmental Quality Act (CEQA).

EXISTING LAW:

- 1) Establishes the State Water Board (Water Code § 175 *et seq.*) to administer California's water rights system (Water Code § 1050 *et seq.*). Authorizes the State Water Board to issue water rights (Water Code § 1250 *et seq.*), collect data on water use under water rights (Water Code § 5100 *et seq.*), enforce water right violations (Water Code § 1845 *et seq.*), and enforce the water right priority system (Water Code § 1450 *et seq.*), among other powers.
- 2) Requires, after January 1, 2016, a person who diverts ten acre-feet (AF) or more of water per year under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage (Water Code § 1840).
- 3) Provides the State Water Board with emergency regulation authority for the adoption of the initial regulations pertaining to the measurement and reporting of water diversion and use [Water Code § 1841(b)].
- 4) Exempts the adoption of initial regulations pertaining to the measurement and reporting of water diversion and use from CEQA [Water Code § 1841(c)].

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** The author argues this bill is necessary to allow the State Water Board to continue to modernize the California water rights information system. The State Water Board unveiled its updated platform to organize this information, California Water Accounting, Tracking, and Reporting System (CalWATRS), in fall 2023. The author maintains this bill is necessary to avoid regulatory delay in keeping the CalWATRS system up-to-date in the future:

The [State Water Board] first adopted regulations for metering and measuring water rights diversions in 2016. Those regulations produce data from diverters that is crucial for quantifying water supply and demand, protecting water rights, and protecting the environment. To be responsive to the changing climate and technology, the [State Water Board] needs an expedited process for measurement and reporting regulations. However,

the current Administrative Procedures Act (APA) and CEQA environmental review processes are overly burdensome. The high workload, long timelines, and costs may limit how frequently and quickly updates are made, which could create another situation where the users are stuck with an outdated and inefficient platform that doesn't meet their needs. The value of a modernized rights reporting system depends on the ability of users to understand and use it correctly. Should reporting and measuring regulations need to be revised, a lengthy regulatory process may lead to data gaps caused by user confusion and missed reporting deadlines. Long regulatory processes also limit the ability to adapt to new technology, develop local voluntary actions, or even to address roadblocks or unforeseen errors in the metering and measurement regulations. Aligning regulatory requirements to the capabilities of the new CalWATRS system will save time and costs for reporters and the [State Water Board]; a lengthy administrative process for updating regulations will slow down potential efficiency improvements.

- 2) **Background.** Every department, division, office, officer, bureau, board or commission in the executive branch of the California state government must follow the rulemaking procedures in APA (Government Code § 11340 *et seq.*) and regulations adopted by the Office of Administrative Law (OAL), unless expressly exempted by statute from some or all of these requirements. A “regulation” is any rule, regulation, order or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it. The APA procedures are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules that have the force of law and to ensure the creation of an adequate record for the OAL and judicial review.

Emergency rulemaking process. The APA allows for an abbreviated rulemaking process for state agencies that must take immediate action to respond to an emergency. The process to adopt emergency regulations allows for a five-day public comment period (compared to a minimum 45-day public comment period under a normal rulemaking process) in which the public can submit comments directly to OAL; however, the rulemaking agency is not required to respond to comments. OAL then has ten days to review the proposed emergency regulations (compared to 30 days under a normal rulemaking process) and can either approve or deny the emergency regulations. Unlike during a regular rule-making process, OAL cannot make changes to a proposed emergency regulation. In total, an emergency rulemaking process can take several weeks to a few months as compared to a regular rule-making process that takes more than a year.

SB 88: Measurement and reporting requirements. Enacted in 2015, SB 88 authorized the State Water Board to adopt an emergency regulation requiring water right holders that divert ten AF or more per year to measure and report their water diversions. The regulations apply to roughly 12,000 water right holders and claimants. SB 88 authorizes the State Water Board to adopt an initial regulation as an emergency regulation that shall remain in effect until revised by the State Water Board. Similarly, the State Water Board's adoption of the initial emergency regulation is exempt from CEQA. The State Water Board adopted the initial regulations in January 2016 and OAL approved them in March 2016. Subsequently, the State Water Board began a process to update the measurement and reporting regulations in November 2024 through the normal rulemaking process and submitted a final draft to OAL in December 2025. Final approval of these regulations is pending at OAL. The State Water

Board determined that the adoption of the update to the original emergency regulations was subject to a categorical exemption under CEQA.

- 3) **Arguments in opposition.** The Association of California Water Agencies (ACWA) opposes this bill arguing that it “is a broad, permanent exemption from stakeholder engagement and oversight through [APA]. We are concerned about the loss of oversight, stakeholder engagement, potential compliance challenges, and the permanent nature of this bill.” ACWA asserts that the standard APA process allows for public input that results in a better outcome. ACWA states that the initial emergency regulations adopted under SB 88 were flawed and maintains that if the State Water Board had been required to go through the full APA process, the challenges created by the emergency regulations could have been avoided. ACWA points to the recent process to update the emergency regulations and contends it was a better approach: “this formal rulemaking process for updates to the regulatory scheme allowed for a thorough public comment and review process, which the water community appreciated. It also provided OAL an opportunity to ensure the regulations were clearly drafted.” Finally, ACWA questions the necessity of the CEQA exemption in this bill since the State Water Board filed a notice of exemption for its most recent update to the measurement and reporting regulations.
- 4) **Proposed Committee amendment.** There is not an emergency relating to the adoption of measurement and reporting regulations; however, the flexibility associated with emergency regulation process may be useful to the State Water Board as new technology and methods for measuring water diversion and use emerge. Rather than grant the State Water Board permanent authority to adopt emergency regulations, the Committee may wish to request that the author add a five-year sunset to this bill so that the Legislature can continue to assess how the State Water Board utilizes this authority and whether ongoing authority is appropriate.
- 5) **Double referral.** This bill has also been referred to the Assembly Natural Resources Committee.
- 6) **Related legislation.** AB 35 (Alvarez) of the current legislation session exempts the development and adoption of program guidelines and selection criteria for grant programs that are appropriated funds from Proposition 4 from APA.

AB 107 (Gabriel), Chapter 5, Statutes of 2026, among other provisions, exempts the development and adoption of program guidelines and selection criteria for programs that received an appropriation of Proposition 4 funds in the 2025 Budget Act from APA.

SB 88 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2015, among other provisions, authorized the State Water Board to adopt initial measurement and reporting regulations as emergency regulations.

SB 1168 (Pavley), Chapter 346, Statutes of 2014, enacts portions of the Sustainable Groundwater Management Act (SGMA) and, among other provisions, grants the Department of Water Resources (DWR) ongoing authority to adopt and update regulations pertaining to groundwater basin boundary adjustments as emergency regulations under APA.

AB 1739 (Dickinson), Chapter 347, Statutes of 2014, enacts portions of SGMA and, among

other provisions, grants DWR authority to adopt and update regulations pertaining to its evaluation of groundwater sustainability plans as emergency regulations under APA.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

Association of California Water Agencies
California Chamber of Commerce
California Farm Bureau
California Municipal Utilities Association
Rural County Representatives of California

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