

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 717 (Aguiar-Curry) – As Amended March 10, 2025

Policy Committee: Water, Parks and Wildlife

Vote: 13 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill creates a new water right registration for a “small restoration use.”

Specifically, this bill, among other things:

- 1) Authorizes the State Water Resources Control Board (State Water Board) to issue a water right registration for a “small restoration use” and defines small restoration use as any of the uses of water specified in the bill in connection with a project whose primary purpose it is to restore, enhance, or provide habitat for fish and wildlife.
- 2) Allows a registrant for a small restoration use to apply for a restoration management permit (RMP) by the Department of Fish and Wildlife (DFW), and requires the registrant, if DFW issues an RMP for a small restoration use, to include a copy of any conditions required by the RMP with the certification required under current law for water right registrations.
- 3) Provides that the State Water Board shall not issue a registration for a small restoration use on a stream segment where the director of DFW has proposed streamflow requirements until the State Water Board establishes instream flow requirements as part of the general conditions applicable to that stream segment, as specified.

FISCAL EFFECT:

- 1) The State Water Board estimates ongoing annual costs of approximately \$250,000 for one new position to develop general conditions for a small restoration use water right registration and to process new registrations (Water Rights Fund or General Fund). In addition, the State Water Board estimates \$1 million in one-time contracting costs to assist in the development of California Environmental Quality Act (CEQA) documents related to the development of general conditions (General Fund).

The State Water Board’s ongoing costs may be recoverable via fees. The board charges annual fees for water right registrations for a small domestic use, a small irrigation use, and a livestock stockpond use (Water Rights Fund) to recover costs incurred, among other things, in connection with the issuance, administration, review, monitoring, and enforcement of water right registrations. However, the committee notes it is not entirely clear if the bill as drafted authorizes the State Water Board to charge fees for the new water right registration created by this bill. The author may wish to consider amending Water Code section 1525(b)

- (2) to make it explicitly clear that the board has the authority to collect fees for small restoration uses and recover its costs for implementing this bill.
- 2) DFW notes the creation of a new water right registration may increase the workload of its regional water right coordinators but that these costs are likely absorbable.

COMMENTS:

- 1) **Purpose.** According to the author:

[This bill] will provide a new approach to streamline the permitting process for restoration projects and small ponds that are created to reduce stress on streams during critical periods of low streamflow. This process will help encourage farmers to shift their water use to divert water during high flow periods during winter and spring in exchange for reducing existing diversions during low flow periods in summer and fall.

In addition, the author asserts this bill reduces regulatory wait times for habitat restoration projects that need a relatively small amount of water by creating an expedited registration pathway for these projects as opposed to requiring the submission of a full water right application with the State Water Board.

- 2) **Background.**

Water Right Registrations. The State Water Board's Division of Water Rights administers California's water right system, including water right registrations. Water right registrations provide an expedited pathway to acquisition of an appropriative water right for certain small projects – specifically small domestic use, small irrigation use, and livestock stockpools. These registrations last for a term of up to five years and may be renewed for additional five-year terms if the registrant meets conditions placed upon the registration, reports their use, and pays fees.

According to the State Water Board, the process to apply for a water right registration proceeds as follows. The State Water Board reviews the registration packet to ensure the submittal meets the criteria of the program. Once the review is complete, for a small domestic use or livestock stockpond registration, the State Water Board shares the registration with DFW for an opportunity to develop special conditions, unless DFW has already submitted special conditions or a waiver of conditions. For a small irrigation use registration, an applicant must consult with DFW prior to submittal of a registration. After State Water Board review, the board may issue a certificate of registration subject to any special conditions from DFW.

According to the Assembly Water, Parks, and Wildlife Committee analysis of this bill, in 2023, the State Water Board reported 1,004 small domestic use registrations, 26 small irrigation use registrations, and 363 livestock stockpond registrations.

DFW Instream Flow Program (IFP). Through IFP, DFW conducts instream flow studies to develop ecological flow criteria needed for long-term protection, maintenance, and effective stewardship of fish and wildlife resources. The director of DFW may transmit completed

instream flow studies to the State Water Board for consideration in water allocation and appropriation actions. This bill prohibits the issuance of a small restoration use registration on a stream segment where DFW has made instream flow recommendations until the State Water Board incorporates such recommendations into the general requirements for said stream segment.

- 3) ***Support.*** This bill is supported by the Wine Institute and California Association of Winegrape Growers, who contend the bill “would allow a simplified process for obtaining water rights for small ponds installed to improve habitat for fish and wildlife” and “provide benefits to fish and wildlife by adjusting diversion timing.”

The bill is also supported by Trout Unlimited and California Trout, who assert the bill is “the best approach to ensure that restoration projects are not hindered or minimized due to a lack of a regulatory pathway that makes environmentally beneficial projects possible.”

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