

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 601 (Allen) – As Amended July 10, 2025

Policy Committee:	Judiciary	Vote:	8 - 2
	Environmental Safety and Toxic Materials		5 - 2

Urgency: No                      State Mandated Local Program: No                      Reimbursable: No

**SUMMARY:**

This bill establishes regulatory authority and responsibilities for the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) (collectively, the Water Boards) pertaining to the protection of water quality in “nexus waters” to ensure these waters continue to be protected similarly to federally-regulated waters of the United States (WOTUS).

Specifically, this bill, among other things:

- 1) Defines “nexus waters” to mean all “waters of the state” that are not also “navigable waters” except for a specified list of waters of the state. Further provides that nexus waters does not include any wetland excluded from the definition of waters of the state, as specified.
- 2) Requires the Water Boards to include nexus waters in federal Clean Water Act (CWA) processes, as specified. Authorizes the State Water Board to adopt water quality control plans for nexus waters, as specified.
- 3) Requires any water quality standard submitted to and approved by, or awaiting approval by, the U.S. Environmental Protection Agency (U.S. EPA) or the State Water Board as of May 24, 2023, to remain in effect and incorporate any modification adopted after that date pursuant to applicable state or federal law.
- 4) Requires the State Water Board to annually adjust civil monetary penalties for inflation, as specified. Requires that moneys collected in accordance with this bill be deposited in the Penalty Adjustment Account, which this bill establishes in the Waste Discharge Permit Fund; requires the funds in the account be expended by the State Water Board, upon appropriation, to assist the Regional Water Boards and other public agencies to clean up or abate the effects of waste on waters of the state, as specified.
- 5) Provides that specified provisions (Chapter 5.5 of Division 7 in the Water Code (WC) (Chapter 5.5)) relating to state programs that implement the CWA apply only to actions required under the CWA, except as otherwise authorized for point source discharges of pollutants to nexus waters.
- 6) Requires, for the purposes of Chapter 5.5, nexus waters to be treated as though they are navigable waters and navigable WOTUS; provides that “discharge” shall have the same meaning as under the CWA and acts amendatory thereof or supplementary thereto, and shall also mean any addition of any pollutant to a nexus water from any point source. Requires, for

the purposes of Chapter 5.5, “waste discharge requirements” to include waste discharge requirements issued for discharges to nexus waters.

- 7) Provides that existing state law, specifying that a report need not be filed for discharges that are not subject to permit application requirements under the CWA, does not apply for discharges to nexus waters. Requires waste discharge requirements adopted or amended for discharges to nexus waters to be adopted pursuant to and in accordance with the requirements of Chapter 5.5. Requires waste discharge requirements for discharges to nexus waters to implement limitations at least as stringent as any analogous CWA permit. Prohibits discharges to nexus waters from being authorized through waivers of waste discharge requirements.
- 8) Requires waste discharge requirements for discharges of dredged or fill material to nexus waters that are wetlands to be issued in accordance with the “State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State” (Dredge or Fill Procedures), referenced in Title 23 of the California Code of Regulations; provides that, in the event of a conflict, the provisions in the Dredge or Fill Procedures shall control.
- 9) Authorizes the Attorney General, State Water Board, the applicable Regional Water Board, or another specified public prosecutor to enforce certain Water Code provisions related to nexus waters, as specified. Authorizes these entities to seek civil penalties, not to exceed \$75,000 per day per violation, as specified. Requires penalties be deposited into the Waste Discharge Permit Fund (WDPF), and requires these moneys be expended by the State Water Board, upon appropriation, to assist Regional Water Boards and other public agencies to clean up or abate the effects of waste on waters of the state, as specified.

**FISCAL EFFECT:**

- 1) Ongoing costs of an unknown amount, in excess of \$150,000, for the Water Boards to implement this bill (WDPF). The fiscal year (FY) 2024-25 budget provided the State Water Board \$6.1 million in FY 2024-25 and \$4.8 million in FY 2025-26 and ongoing, as well as 26 new permanent positions, to handle increased workload resulting from the Supreme Court’s 2023 decision in Sackett v. U.S. Environmental Protection Agency (EPA) (see background). Given the significant overlap between this bill and the ongoing work at the Water Boards in response to Sackett, it is reasonable to assume the Water Boards’ costs of implementing this bill are likely absorbable within recently approved resources.
- 2) Separately, the State Water Board estimates \$500,000 in ongoing annual litigation costs due to the ambiguity this bill creates with its definition of “nexus waters.” Initial costs would be borne by the General Fund until the board adjusts its fees to sustain ongoing costs through the WDPF.
- 3) Penalty revenue of an unknown amount (WDPF) to the extent the State Water Board or public prosecutors impose civil penalties for violations related to nexus waters or waste discharge requirements for nexus waters.
- 4) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown amount to the courts to adjudicate actions brought by the Water Boards and public prosecutors to enforce violations involving nexus waters. Actual costs will depend on the number of cases filed and

the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations.

- 5) Department of Justice anticipates minor and absorbable costs.

#### COMMENTS:

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

Through a robust permitting process implemented by the state, the federal Clean Water Act has regulated if, how, and when industrial, municipal, or other business facilities could discharge pollutants into our "Waters of the United States," or "WOTUS" for decades. These protections were abruptly changed in May 2023, when the US Supreme Court ruling in *Sackett v EPA* significantly narrowed which waters fell under the "WOTUS" definition, undermining and rolling back these pollution protection measures for many of our streams and wetlands. SB 601 will maintain the protections these waters enjoyed for decades by integrating "nexus waters" into the standards and permitting structure for currently federally protected waters; and expand the tools available to efficiently and effectively enforce this framework and for the water boards to maintain and improve our water quality.

- 2) **Background.** On May 25, 2023, the U.S. Supreme Court issued its ruling in *Sackett v. EPA*, holding that the CWA extends to only those "wetlands with a continuous surface connection to bodies that are [WOTUS] in their own right," so that they are "indistinguishable" from those waters. According to the majority opinion, the CWA covers only adjoining wetlands, a reading that excludes wetlands separated from jurisdictional waters by man-made dikes or barriers, natural river berms, beach dunes, and the like that had previously been protected. According to the State Water Board, the *Sackett* ruling will have significant and widespread consequences for the CWA and the scope of federal protections over the nation's waters. The jurisdiction of federal agencies is limited to those waters that qualify as WOTUS. Thus, by reducing the number of waters that qualify as WOTUS, the ruling also significantly limits the reach of federal agencies, leaving many state waters unprotected at the federal level and reliant on state authorities.

All waters in California that are not WOTUS are deemed waters of the state and subject to regulation under the state's Porter-Cologne Water Quality Control (Porter-Cologne). While the State Water Board has acknowledged that Porter-Cologne will be a powerful tool to ensure state protection where federal protection is no longer available due to the *Sackett* ruling, it notes many of California's existing regulatory programs are structured and implemented based on how the scope of the CWA had been construed for the last 50 years. With the Supreme Court's dramatic contraction of the CWA, the Water Boards will need to restructure their programs to reflect the new bounds on federal jurisdiction. The Water

Boards administer various CWA programs in California, in addition to water quality protection requirements for waters of the state under Porter-Cologne. The Water Boards expect that there will be a greater reliance on state permits and a heavier state workload and attendant need for increased staff resources and training. Supporters of this bill contend, however, that this bill “eliminates or greatly reduces that workload by allowing the Water Boards to simply insert findings into existing federal permits to prevent the need to issue new state permits.”

This bill aims to ensure that waters previously protected as WOTUS under the Clean Water Act, before the Sackett decision dramatically reshaped which waters may be deemed WOTUS, continue to be protected as they were before and treated similarly to federally-regulated waters. There is strong support for and significant opposition to this bill and stakeholder discussions are ongoing.

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