

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

SB 697 (Laird) – As Amended July 3, 2025

**SENATE VOTE:** 29-1

**SUBJECT:** DETERMINATION OF WATER RIGHTS: STREAM SYSTEM

**KEY ISSUE:** IN ORDER TO STREAMLINE THE ADJUDICATION OF SURFACE WATER RIGHTS, SHOULD THE EXISTING REQUIREMENT THAT THE STATE WATER RESOURCES CONTROL BOARD CONDUCT A FIELD INVESTIGATION AS A PART OF THE ADJUDICATION PROCESS BE REVISED AND MADE PERMISSIVE?

**SYNOPSIS**

*Determining water rights within a watercourse can be a complex and time-consuming process. A primary method for sorting through California's complex system of appropriative and riparian surface water rights is the statutory adjudication process within the State Water Resources Control Board. Under existing law, water rights holders experiencing a dispute can petition the State Water Resources Control Board to adjudicate a stream system. As a part of the process for evaluating the adjudication, existing law requires the State Water Resources Control Board to physically conduct a field inspection of the watercourse and the properties involved in the dispute. Proponents of this bill note that this process is cumbersome and outdated, especially in light of modern technology.*

*Seeking to streamline the adjudication process, this bill makes several reforms to existing law. First, this bill eliminates the mandate that the State Water Resources Control Board conduct a field inspection as a part of every adjudication. The bill would make such fieldwork permissive and at the discretion of the Board staff. Additionally, as a part of the move toward a more technology and document driven adjudicatory process, this bill enhances the State Water Resources Control Board's authority to issue information orders to those who petitioned for the adjudications seeking documents and technical reports to assist in the adjudication. Finally, this bill clarifies that the existing administrative appeal provisions apply to contested information orders.*

*The bill is supported by Sierra Club California which contends that this bill will streamline adjudications and save State Water Resources Control Board resources, thus allowing the agency to be more efficient in determining water rights. This bill has no known opposition and was previously heard and approved by the Committee on Water, Parks, and Wildlife by a vote of 11 to 0.*

**SUMMARY:** Updates and streamlines the State Water Resources Control Board's statutory adjudication process for determining stream system water rights. Specifically, **this bill:**

- 1) Repeals the existing requirement that the State Water Resources Control Board conduct a detailed field investigation of each claimant involved in a statutory adjudication.

- 2) Replaces the requirement repealed in 1) with a requirement that the State Water Resources Control Board, when conducting a statutory adjudication, consider all pertinent information when investigating a stream system, including information on diversions collected by a measuring device and reported to the Board by a water right holder.
- 3) Repeals the existing requirement for the State Water Resources Control Board to conduct a field investigation of the use of all known water users on a stream system that have not filed a notice of proof of claim in a statutory adjudication.
- 4) Replaces the requirement repealed in 3) with a requirement that the State Water Resources Control Board investigate in detail the water use of such users to the extent they are known to the Board.
- 5) Authorizes the State Water Resources Control Board to issue an information order to any claimant in a statutory adjudication on a stream system to produce a report on the claimant's water use or basis of right if the Board determines in writing that information provided by the claimant is inadequate for the Board's investigation as part of the statutory adjudication.
- 6) Requires the State Water Resources Control Board, when requesting a report pursuant to 5), to do the following:
  - a) Provide the person to whom the request is directed with a written explanation with regard to the need for the information; and
  - b) Identify the evidence that supports requiring that person to provide the information.
- 7) Provides that if the preparation of individual reports pursuant to 5) would result in a duplication of effort, the State Water Resources Control Board may order any person or entity subject to the order to pay a reasonable share of the cost of preparing reports.
- 8) Authorizes the State Water Resources Control Board, when conducting an investigation in furtherance of a statutory adjudication, to inspect property or facilities where water is claimed to be used, diverted, or conveyed, so long as the Board has obtained a valid inspection warrant, as specified.
- 9) Requires a party receiving an information order to respond within 75 days of the date of the information order.
- 10) Clarifies that the existing law regarding administrative review of State Water Resources Control Board decisions and orders applies to orders for information issued in furtherance of a statutory adjudication.

**EXISTING LAW:**

- 1) Authorizes the State Water Resources Control Board to determine all rights to the water of a stream system whether based upon appropriation, riparian right, or other claim through a statutory adjudication. (Water Code Section 2501.)
- 2) Authorizes the State Water Resources Control Board to investigate all streams, stream systems, portions of stream systems, lakes, or other bodies of water. (Water Code Section 1051 (a).)

- 3) Authorizes the State Water Resources Control Board, in furtherance of an investigation pursuant to 2) to take testimony and to issue an information order to a water right holder or claimant to provide certain information related to a diversion and use of water. (Water Code Section 1051 (b)-(c).)
- 4) Requires, upon receipt of a petition signed by one or more claimants to water of any stream system, requesting the determination of the rights of the various claimants to the water of that stream system, the State Water Resources Control Board, if, upon investigation, it finds the facts and conditions are such that the public interest and necessity will be served by a determination of the water rights involved, enter an order granting the petition and make proper arrangements to proceed with the determination. (Water Code Section 2525.)
- 5) Requires, as soon as practicable after granting the petition specified in 4), the State Water Resources Control Board to prepare and issue a notice setting forth the following:
  - a) The facts of the entry of the order and of the pendency of the proceedings;
  - b) That all claimants to rights to the use of water of the stream system are required to inform the board within 60 days from the date of the notice, or such further time as the board may allow, of their intention to file proof of claim;
  - c) The date prior to which all claimants to rights to the water of the stream system shall notify the board in writing of their intention to file proof of claim and the address to which all subsequent notices to the claimant relating to the proceedings may be sent; and
  - d) A statement that all claimants will be required to make proof of their claims at a time to be fixed by the board after the conclusion of its investigation. (Water Code Section 2526.)
- 6) Requires the State Water Resource Control Board, as soon as practicable after granting a petition specified in 4), to begin an investigation of the stream system, of the diversion of water, of all beneficial uses being made of the water, and of the water supply available for those uses, and to gather such other data and information as may be essential to the proper determination of the water rights in the stream system. (Water Code Section 2550.)
- 7) Requires, during the investigation, the representatives of the State Water Resources Control Board to, after 30 days' notice in writing to each person who has given notice of intent to file proof of claim, conduct a detailed field investigation of such person's use of water, and determine the acreage under irrigation or otherwise define the place of use and purpose of use, determine the location and capacity of such person's diversion works and conduits conveying water from the stream system, and the amount of water diverted and reasonably required to satisfy the uses being made. (Water Code Section 2551.)
- 8) Requires all persons who have provided notice of intent to file a proof of claim to have available at the detailed field investigation all pertinent information on the extent and nature of the claimant's water use and basis of water right, so as to expedite the investigation and facilitate the completion of the proof of claim. (Water Code Section 2552.)

- 9) Requires the State Water Resources Control Board to conduct a detailed field investigations of projects of all water users known to the board who have not filed a notice of intent to file proof of claim. (Water Code Section 2554.)
- 10) Requires the State Water Resources Control board, immediately upon conclusion of the detailed field investigation, to provide a claimant by registered mail, a blank form of proof of claim and a copy of the factual determinations of the representatives of the board for use in preparing the proof of claim. (Water Code Section 2553.)
- 11) Requires the State Water Resources Control Board to supply water users not filing a notice of intent to file a proof of claim a copy of the factual determinations of the Board and a blank form of proof of claim and permit the user to file proof of claim after completion of the detailed investigation of their project by the representatives of the board on the same basis as persons who were present and who filed timely notices of intent. (Water Code Section 2555.)
- 12) Outlines the administrative process the State Water Resources Control Board must utilize for reviewing and reconsidering Board decisions and orders. (Water Code Section 1120 *et seq.*)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** As the state's primary regulator of water rights, the State Water Resources Control Board is statutorily authorized to determine all rights to water of a stream system whether based upon appropriation, riparian right, or other basis of right. This process, known as a statutory adjudication, authorizes water users (known as claimants) to petition to the State Water Resources Control Board to adjudicate water rights within a stream system. Under existing law, as a part of the adjudication, the State Water Resources Control Board must conduct a comprehensive field investigation of the stream system. According to the author, the existing process is overly prescriptive and needlessly burdensome on the State Water Resources Control Board. Seeking to streamline the adjudication process, this bill permits the State Water Resources Control Board to conduct field investigations, but removes the mandate. In support of this bill the author states:

Senate Bill 697 modernizes the State Water Board's investigation of water right claims in stream systems. Currently, the law requires State Water Board staff to travel and perform costly and time intensive in person field investigations along a stream system. Senate Bill 697 allows the Board the option to use modern technology such as satellite imagery and digital data when conducting investigations, increasing efficiency without compromising data accuracy.

***Statutory adjudications aim to provide for a streamlined, non-litigation, process for determining water rights, however, the existing process is cumbersome.*** Determining water rights within a watercourse can be a complex and time-consuming process. Depending on the waterway, both riparian and appropriative rights may be at stake. Riparian rights are rooted in English common law, which grants water rights to landowners whose land is adjacent to waterways. Appropriative rights, a vestige of California's gold rush past, allow a water rights holder to divert water based on a theory of first in time, first in right, regardless of the proximity of the water rights holder to the watercourse. Unsurprisingly, given the tangled web of water rights that may be at play in any given stream system, existing law permits water rights holders to petition the State Water Resources Control Board to adjudicate the specific rights of all

claimants. Such requests typically arise during times of scarcity when there is insufficient water to satisfy the needs of every rights holder.

Due to the complexity of the water rights system, existing law requires the State Water Resources Control Board to conduct field inspections of streams subject to adjudication. The proponents of this bill note that this process can be burdensome and unnecessary, especially when adequate documentation exists to illuminate who holds what water right. Furthermore, as mapping and geolocation technology improves, computer systems make field work less necessary.

***This bill streamlines the statutory adjudication process while ensuring the State Water Resources Control Board maintains all necessary tools to properly assess water rights in a stream system.*** Seeking to streamline stream system adjudications, this bill eliminates the requirement that the State Water Resources Control Board conduct a field inspection of the water course. The bill replaces that mandate with an authorization to conduct field inspections when necessary. Recognizing that some water rights cases may be resolved utilizing property documents and expert reports, this bill clarifies the State Water Resources Control Board's authority to issue "information orders" to the parties who are claimants in the adjudication. In furtherance of expediting the adjudicatory process, the bill requires a claimant to respond to the information order within 75 days. Finally, this bill applies the existing law's procedures for reconsideration, amendment, and judicial review of State Water Resources Control Board decisions and orders; to the orders issued pursuant to the streamlined adjudication procedures described above.

***ARGUMENTS IN SUPPORT:*** This bill is supported by the Sierra Club California. In support of the bill, they write:

The primary objective of the legislation is to refine the process by which the State Water Resources Control Board conducts investigations into water rights claims. The bill modifies existing procedures by allowing board representatives to investigate water use in detail without the mandatory requirement of conducting a field investigation.

The State Water Board's ability to investigate water rights claim issues is severely restricted by bureaucracy- strained to complete reports and investigate claims. This bill will streamline these processes so that the State Water Board may complete important investigations into water rights claims in a timely fashion.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Sierra Club California

### **Opposition**

None on file

**Analysis Prepared by:** Nicholas Liedtke / JUD. / (916) 319-2334