

Date of Hearing: April 19, 2016

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE  
Marc Levine, Chair

AB 1755  
(Dodd) - As Amended April 5, 2016

SUBJECT: The Open and Transparent Water Data Act

SUMMARY: Requires the Department of Water Resources (DWR) to establish a public benefit corporation to manage statewide water information and an online water transfer clearinghouse. Specifically, this bill:

- 1) Makes findings and declarations on the need for a 21st century water management system.
- 2) Requires DWR to establish a public benefit corporation to manage a statewide water information system.
- 3) Requires the water information system to integrate water data from numerous federal, state, and local agencies in a manner that allows for all data to be readily incorporated and compiled into readily usable formats.
- 4) Requires the public benefit corporation to establish an online water transfer clearing house.
- 5) Requires DWR, the State Water Resources Control Board State Water Board), and the Department of Fish and Wildlife (DFW) to develop a transparent process for sharing water data.
- 6) Creates a Water Information System Administration Fund with moneys available to the Department upon appropriation.

EXISTING LAW:

- 1) Provides DWR responsibilities and jurisdiction in matters pertaining to water or dams held by the state.
- 2) Provides for the establishment of a water rights system with measuring and reporting requirements administered by the State Water Board.
- 3) Requires DFW to hold fish and wildlife in trust for the people of the state.
- 4) Establishes a policy to facilitate the voluntary transfer of water, and permits all water rights holders to pursue a water transfer.

FISCAL EFFECT: Unknown.

COMMENTS: Requires DWR to establish a public benefit corporation to manage statewide water information and an online water transfer clearinghouse.

- 1) Author's Statement: AB 1755 Improves open and transparent access to water data by creating a statewide water data information system to integrate critical water data in a user friendly, publicly accessible website that will simplify and expedite decision-making. Develops protocols for data sharing, transparency, documentation, and quality control that will promote greater compatibility among data sets and encourage the application of new methods to synthesize information to support better decision making. Creates an online water transfer information clearinghouse to improve access to information, an important step towards an effective water market. Establishes a new public benefit corporation to house and manage the water data system and clearinghouse.
- 2) Background: More information is better than less. Most activities in today's world are documented closely and compiled into data sets. Information has value in the 21st century economy. That value is, of course, tied to the usefulness of the information. Public policy and economic decision making have historically benefited from more information. From a public policy standpoint, data has been a big driver in dramatic improvement in energy use in California and nationally. The Energy Information Administration was created after the 1970's energy crisis when it became clear that the information necessary to make good energy policy was not available. Today we have precise information about energy use, and it has allowed for the development of policies that have improved energy management.

In contrast to the information economy and the improved decision making that has occurred from the widespread availability of useable data, there is very little easily available data on water. On the national level there is analysis on water use only once every five years; that data is for one year, and comes out four years after reporting is complete.

California keeps numerous data sets on water from urban use to environmental use and everything in between. Those data sets are not coordinated and as a result do not produce a complete water information picture. The value of these numerous data sets is diminished by the fact that they are piecemeal and while they may address overlapping problems of supply, use, and efficiency they are only valuable to the extent they touch on any specific area.

This bill requires the state overcome the challenge of piecemeal water data in the state. Having all water data in the state compiled and publicly available in a useable fashion would drive water policy innovation and likely produce many of the benefits that robust useable data have had on energy policy.

#### Role of Transfers

Water transfers involve a change in the place of water use, from the water's historic point of diversion and use, to a new location

either within or outside the watershed of origin. Water transfers can last up to a year (temporary), more than a year but not permanent (long-term), or be permanent. Water transfers are strictly voluntary, and must not create harm to other legal water users, the environment, or the local economy from which the water is being transferred.

Water transfers can be an effective water management tool. Transfers are particularly useful for meeting critical needs during drought periods. Transfers can only occur with "new water" the surface water system will realize as a result of changes in reservoir operation, groundwater substitution, crop idling or shifting, and occasionally water conservation action taken.

#### History of Transfers

Water transfers in California date back to the Gold Rush. An 1859 California Supreme Court decision found that water rights can be transferred like any other property. In 1976 the Governor's Commission on Water Rights recognized the importance of water transfers to the future of California's water supply. Many of the recommendations of the commission were adopted in the 1980's. There was additional legislation in the early 1990's but little has changed in the last 20 years.

Transfers grew considerably during the 1987-92 drought and continued to expand through the 1990's. Growth in transfers slowed dramatically in 2000 and has remained relatively flat or even regressed since 2010.

#### Big Year for Transfer Reform?

The current historic drought has highlighted major barriers to water transfers. This has brought attention to the complicated rules associated with trading water from different sources. California's trading rules are fragmented, opaque, inconsistent, and cumbersome. Often times several departments and agencies across and between federal, state, and local government have a role in a transfer moving forward. As a result a number of stakeholders including agricultural, water purveyors, environmental, and local communities have begun to come together to discuss ways in which trading rules can work better.

In March, the Association of California Water Agencies released principles recommending ways to improve the water transfer process. The release of the principles has ramped up the stakeholder process. There appears to be general agreement among many on the need for improvement in the governance and management of data associated with water transfers. There is, however, quite a number of issues still to be resolved. It seems likely that the next couple of months will produce more refined proposals.

Legislation on this issue should consider all aspects of improving water transfers. The path to do that is dependent on the discussions and outcomes of the stakeholder processes that are currently underway. The final version of this bill will no doubt be shaped by those stakeholder efforts.

This bill and AB 2304 (Levine) of 2016, address the issue of water transfers in different ways. It has been the policy of this committee to resolve in committee different approaches to the same policy issue. There is an expectation that significant progress will occur through the stakeholder process in the near term. The overlap this bill has with AB 2304, specifically the reporting on water transactions in Chapter 2, Article 3, should be removed.

3) Prior and Related Legislation:

- a) AB 2304 (Levine) 2016, establishes the California Water Market Exchange to create a centralized water market platform. AB 2304 passed this committee 10-4.
- b) SB 88 (Budget) Chapter 27, Statutes of 2015, added measurement and reporting requirements for a substantial number of water right holders.
- c) The following pieces of legislation created the Sustainable Groundwater Management Act:
  - i. AB 1739 (Dickinson), Chapter 347, Statutes of 2014
  - ii. SB 1168 (Pavely), Chapter 346, Statutes of 2014
  - iii. SB 1319(Pavely), Chapter 348, Statutes of 2014

4) Supporting Arguments: The current drought has revealed significant challenges to effective water management in California. A lack of assessable data that would support timely and science-based decision making is a key constraint to creating a sustainable water management system that is able to meet the challenges of prolonged drought as well as heavy rainfall and flooding. Water agencies across the state submit large quantities of data to an array of local, state, and federal agencies. The problem is not a lack of data, but the fact that managers and water users have been unable to harness the data due to the lack of an integrated system that would make the information easily accessible and usable. Establishing a statewide water information system would help managers and users make more informed decisions and ensure that limited water resources are managed with the best and most complete information.

5) Opposing Arguments: None on file

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council (Sponsor)  
American Rivers  
Association of California Water Agencies (if amended)  
AquAlliance (if amended)  
CalTrout  
Ceres  
Community Water Center (if amended)  
Los Angeles Area Chamber of Commerce  
North Bay Leadership Council

Northern California Water Association  
San Francisco Chamber of Commerce  
Sonoma County Water Agency  
The Bay Institute (TBI)  
Tuolumne River Trust  
The Nature Conservancy  
Union of Concerned Scientists  
Upper San Gabriel Valley Municipal Water District

Opposition

None on File

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