

CALAVERAS COUNTY WATER DISTRICT LEGAL AFFAIRS COMMITTEE MEETING

AGENDA

June 25, 2018
2:00 p.m.
CCWD Board Room

Calaveras County Water District
120 Toma Court (P.O. Box 846)
San Andreas, California 95249

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at (209) 754-3028. Notification in advance of the meeting will enable CCWD to make reasonable arrangements to ensure accessibility for this meeting. Any documents that are made available to the Board before or at the meeting, not privileged or otherwise protected from disclosure, and related to agenda items, will be made available at CCWD for review by the public.

ORDER OF BUSINESS

1. **CALL TO ORDER / PLEDGE OF ALLEGIANCE**
2. **PUBLIC COMMENT:** Comments limited to 5 minutes per person.
3. **OLD BUSINESS**

Federal

- a* Update on federal legislative policy matters, e.g. Water Infrastructure Improvements for the Nation (WIIN) Act (P.L. No.: 114-322 (12/16/2016)), infrastructure investment, and forest management
(Dave Eggerton, General Manager)

State

- b* Discussion/direction regarding SB 623 (Monning): Water quality: Safe and Affordable Drinking Water Fund; and budget trailer bill
(Joel Metzger, Manager of External Affairs, Conservation and Grants)
- c Update on long-term water conservation legislation/regulations and permanent water waste prohibitions
(Joel Metzger, Manager of External Affairs, Conservation and Grants)
- d Discussion/direction regarding state water bonds
(Joel Metzger, Manager of External Affairs, Conservation and Grants)
- e Discussion/direction regarding Mokelumne River State Wild and Scenic Designation legislation
(Joel Metzger, Manager of External Affairs, Conservation and Grants)

4. **NEW BUSINESS**

- a* Discussion/direction regarding SB 998 (Dodd) Water Service Shut-Off Bill
(Joel Metzger, Manager of External Affairs, Conservation and Grants)
- b Discussion/direction regarding AB 2649 (Arambula): Water Rights: Water Management
(Joel Metzger, Manager of External Affairs, Conservation and Grants)
- c* Update on other state and federal legislative and policy matters.
(Dave Eggerton, General Manager)

5. **GENERAL MANAGER COMMENTS**

6. **DIRECTOR COMMENTS**

7. **FUTURE AGENDA ITEMS**

8. **NEXT COMMITTEE MEETING**

9. **ADJOURNMENT**

Attachments:

M E M O R A N D U M

FROM: Whitnie Wiley
TO: State Legislative Committee
RE: Long-Term Conservation Bills
DATE: June 8, 2018

The Long-Term Water Use Efficiency/Conservation bills, SB 606 (Hertzberg) and AB 1668 (Friedman) were signed into law by Governor Brown on May 31, 2018. While the bills did not contain all the amendments ACWA and member agencies asked for over the course of the year plus discussion and journey, the end results are much better than where the bills started in early 2017.

Attached please find summaries for the two bills that layout the provisions for each. In the coming day's ACWA staff will be developing an implementation timeline and other resources for member agency use in understanding the provisions in the new law and the regulatory path ahead.

Thank you all for your participation and assistance in developing the various amendments that helped to make the new law better than it would have been a year ago.

**Association of California Water Agencies
AB 1668 (Friedman) Summary
As Chaptered on 5/31/18**

Urban Water Use Objectives and Water Use Reporting Requirements:

AB 1668 establishes urban water use objectives, which encompass standards and reporting requirements for indoor and outdoor residential use, commercial, industrial, and institutional (CII) landscape areas, water losses, and other unique local uses and situations that have a material effect on an urban water supplier's total water use. The bill requires the State Water Resources Control Board (State Water Board) to coordinate with Department of Water Resources (DWR) to recommend and adopt long-term standards for efficient water use, as well as conduct studies and investigations to report to the Legislature.

How the Urban Water Use Objective is Calculated

AB 1668 details the provisions included in the urban water use objective while SB 606 provides how the urban water use objective is calculated. Each urban water supplier's urban water use objective will include the sum of aggregate estimated efficient indoor and outdoor residential water use, efficient outdoor irrigation of landscape areas with dedicated irrigation meters (or equivalent technology in connection with CII landscape area water use), efficient water losses, water use in accordance with appropriate variances, and, where allowed, the potable reuse bonus incentive. The estimated efficient water use for each segment uses the standards defined in or directed to be developed by the State Water Board and DWR pursuant to AB 1668.

Indoor Residential Water Use Standards, Studies and Reporting Requirements

Once enacted, the bill sets the initial standard to 55 of gallons per capita daily (gpcd) for indoor residential water use. Beginning January 1, 2025, the standard for indoor residential water use will become 52.5 gpcd, and beginning January 1, 2030 the standard will decline to 50 gpcd. The bill requires that DWR and the State Water Board conduct studies, investigations, and recommends to the Legislature a standard for indoor residential water use that more appropriately reflects best practices for indoor residential water use than the standards currently outlined in the bill. The indoor standard will be the greater of the recommendation or the statutorily provided gpcd. A report on the results of the studies and investigations is required to be made to the chairpersons of the relevant policy committees of each house of the Legislature by January 1, 2021. The studies and investigations must include an analysis of the benefits and impacts of how the changing standard for indoor residential water use will affect water and wastewater management, including potable water usage, wastewater, recycling and reuse systems, infrastructure, operations, and supplies. The studies and investigations must include collaboration with, and input from, a broad group of stakeholders.

Outdoor Residential & CII Water Use Standards, Studies and Reporting Requirements

The bill requires that DWR recommend, and the State Water Board adopt, long-term standards for outdoor residential water use and CII landscape areas with dedicated irrigation meters or other means of calculating outdoor irrigation use. Both outdoor residential water use and CII landscape area

standards shall be included to incorporate the principles of the model water efficient landscape ordinance (MWELo) by May 20, 2021. The principles of MWELo are defined to include, but are not limited to, evapotranspiration adjustment factors, landscape areas, maximum applied water allowance, reference evapotranspiration, and special landscape areas including the provisions governing evapotranspiration adjustment factors for different types of water used for irrigation. For residential outdoor water use, the standards adopted by the State Water Board will apply to irrigable lands and swimming pools/spas; ornamental water features shall analyzed separately. The bill requires that DWR conduct pilot projects or studies before recommending standards to ensure that the data provided to local agencies is accurate for the data's uses, and considers California's diverse landscapes and community characteristics.

AB 1668 also requires, by June 30, 2022, that DWR and the State Water Board adopt performance measures for CII water use that are consistent with the October 21, 2013 "Report to the Legislature" by the CII Task Force. These performance measures are not included in the urban water use objective and must exclude provisions related to "process water," as defined in the bill. Prior to the recommendations for performance measures for CII water use, DWR is required to solicit broad public participation from stakeholders. The bill also requires the State Water Board, in coordination with DWR, to adopt long-term standards for the efficient use of water by June 30, 2022, for outdoor residential water use, outdoor irrigation of landscape areas with dedicated irrigation meters in connection with CII water use, and a volume for water loss.

Water Loss

For purposes of the urban water use objective, AB 1668 provides that the water loss standards set by the State Water Board under SB 555 (Chapter 679, Statutes of 2015) will be the standards used in the urban water use objective calculation.

Variations for Water Use Objectives and Unique Uses

By October 1, 2021, the bill requires that DWR recommend, and the State Water Board adopt, variations for unique uses that can affect an urban retail water supplier's urban water use objective. Examples of variations for unique uses include, but are not limited to, significant: populations of horses and other livestock, fluctuations in seasonal populations, use of water for soil compaction and dust control, use of water to supplement ponds and lakes to sustain wildlife, use of water to irrigate vegetation for fire protection, and use of water for commercial or noncommercial agricultural use.

Data Sharing and Reporting

The bill also requires that DWR and the State Water Board analyze opportunities to streamline data reporting, as well as how agencies can integrate various data sets in publicly accessible locations. The bill requires DWR, in coordination with the State Water Board, to conduct necessary studies and investigations and recommend, no later than October 1, 2021, guidelines and methodologies for DWR to adopt that identify how an urban retail water supplier calculates its urban water use objective.

Fines for Violations

The bill authorizes the State Water Board, after November 1, 2027, to impose fines for violating regulations adopted to implement the provisions of AB 1668. The fines are required to be up to \$1,000 for each day that the violation occurs. If the violation occurs during a critical water year of a multi-year drought or a governor declared drought emergency, the fine could go up to \$10,000 per day of violation.

Agricultural Water Management Planning Act Revisions and Water Use Objectives:

Overview of Revisions

AB 1668 revises the Agricultural Water Management Planning Act and establishes agricultural water use objectives and reporting requirements. The bill requires an agricultural management plan (AWMP) to 1) quantify measures to increase the efficiency of agricultural water use efficiency, 2) include an annual water budget, 3) describe the agricultural water supplier's water management strategy with specified elements, and 4) include a drought plan describing the actions of the agricultural water supplier for drought preparedness and management of water supplies and allocations during drought conditions.

Fines for Failure to Comply and Update AWMPs

The bill requires DWR to review each AWMP. DWR may coordinate its review with the Department of Food and Agriculture (DFA) and the State Water Board. DWR must notify an agricultural water supplier if DWR determines that actions are required to comply with the requirements of the bill or if a supplier fails to update its AWMP. DWR is authorized to take corrective actions and may assess a fine of \$1,000 per day, not to exceed \$25,000, if data necessary for the preparation or completion of a plan is withheld by an agricultural water supplier.

Reporting Requirements

DWR, in consultation with the State Water Board, must submit a report to the Legislature on the agricultural efficient water management practices that have been implemented and are planned to be implemented by December 31, 2021. The report shall include an assessment of the manner in which the implementation of efficient water management practices has affected and how it will affect agricultural operations, including estimated water use efficiency improvements.

Small Water Supplier and Rural Community Requirements:

Identification and Recommendations

AB 1668 requires DWR, by January 1, 2020, in consultation with the State Water Board and other relevant stakeholders, to identify small water suppliers and rural communities that may be at risk of drought and water shortage vulnerability. The bill also requires DWR to propose to the Governor and the Legislature, by January 1, 2020, recommendations and guidance regarding the development and use of countywide drought contingency plans to address drought planning for the identified small water suppliers and rural communities. The recommendations shall include 1) assessment of drought vulnerability, 2) actions to reduce drought vulnerability, 3) response, financing, and local communication and outreach planning efforts that may be implemented in times of drought, 4) data needs and reporting, and lastly, 5) the roles and responsibilities of interested parties and coordination with other relevant water management planning efforts.

Definitions:

The bill defines the following for purposes of the standards set forth in SB 606:

Large landscape: means a nonresidential landscape as described in the performance measures for CII water use.

Performance measures: means actions to be taken by urban retail water suppliers that will result in increased water use efficiency by CII water users. Performance measures may include, but are not limited to, educating CII water users on best management practices, conducting water use audits, and preparing water management plans. Performance measures do not include process water.

Process water: means water used by industrial water users for producing a product or product content or water used for research and development. Process water includes, but is not limited to, continuous manufacturing processes, and water used for testing, cleaning, and maintaining equipment. Water used to cool machinery or buildings used in the manufacturing process or necessary to maintain product quality or chemical characteristics for product manufacturing or control rooms, data centers, laboratories, clean rooms, and other industrial facility units that are integral to the manufacturing or research and development process is process water. Water used in the manufacturing process that is necessary for complying with local, state, and federal health and safety laws, and is not incidental water, is process water. Process water does not mean incidental water uses.

SB 606 Contingency and Implementation:

The bill includes language that the enactment and implementation of AB 1668 are contingent upon the enactment of SB 606 (Hertzberg).

**Association of California Water Agencies
SB 606 (Hertzberg) Summary
As Chaptered on 5/31/18**

Urban Water Use Objectives and Water Use Reporting Requirements:

SB 606 requires the State Water Resources Control Board (State Water Board) and the Department of Water Resources (DWR) to adopt water efficiency regulations, outlines requirements for urban water suppliers, and specifies penalties for violations. The bill also requires annual calculation of the urban water use objective and annual reporting of the previous year's water use that is consistent with the urban water use objective. The bill provides a bonus incentive, up to 15 percent, on top of the urban water use objective for the amount of potable reuse water delivered the previous year.

SB 606 also revises certain provisions related to urban drought planning. Specifically, the bill:

- Revises requirements for urban water management plans;
- Requires the adoption of a water shortage contingency plan (WSCP), which must include certain elements, annual drought risk assessment (drought risk assessment) procedures and standard water shortage levels; and
- Requires urban water suppliers to conduct annual drought risk assessments and to submit an annual report to DWR.

Urban Use Objectives

SB 606 establishes urban water use objectives and reporting requirements for urban water suppliers by requiring an urban water supplier to calculate an aggregate urban water use objective each year for the previous calendar year by November 1, beginning November 1, 2023, and by November 1 every year thereafter. If an urban water supplier does not meet its water use objective, the bill authorizes the State Water Board to issue specified orders. Each urban water supplier's urban water use objective will include the sum of aggregate estimated efficient indoor and outdoor residential water use, efficient outdoor irrigation of landscape areas with dedicated irrigation meters (or equivalent technology in connection with commercial, industrial, and institutional (CII) landscape area water use), efficient water losses, and water use in accordance with appropriate variances. The details of each of the standards used to calculate the urban water use objective are included in AB 1668. This bill authorizes urban retail water suppliers to use alternative data in calculating the urban water use objective. Urban water suppliers must demonstrate to DWR that the alternative data is equivalent or superior in quality and accuracy compared to the data provided by DWR. The bill requires an urban water supplier to submit a report to DWR no later than November 1, 2023, and by November 1 every year thereafter, that includes 1) the urban water use objective along with relevant supporting data, 2) the actual urban water use along with relevant supporting data, 3) documentation of the implementation of the performance measures for CII water use, and 4) a description of the progress made towards meeting the urban water use objective.

Bonus Incentive

SB 606 establishes a bonus incentive for potable reuse water equal to the volume delivered. This will allow urban retail water suppliers that deliver water from a groundwater basin, reservoir, or other source that is augmented by potable reuse water to adjust its yearly urban water use objective by the bonus incentive. Urban retail water suppliers are eligible for a bonus of up to fifteen percent for any potable reuse water produced at an existing facility. The bonus incentive shall not exceed ten percent for any potable reuse water produced at any facility that does not 1) possess a certified environmental impact report (EIR), mitigated negative declaration (MND), or negative declaration (ND) on or before January 1, 2019, 2) begin producing and delivering potable reuse water on or before January 1, 2022, or 3) use microfiltration and reverse osmosis technologies to produce the potable reuse water.

Reporting

SB 606 authorizes the State Water Board to issue a regulation requiring wholesale water suppliers, urban retail water suppliers, or distributors of public water supply to submit information relating to water production, water use, or water conservation. By January 1, 2020, DWR, in coordination with the State Water Board, shall conduct necessary studies and investigations and provide recommendations to the Legislature, on the feasibility of developing and enacting water loss reporting requirements for urban wholesale water suppliers. By January 10, 2024, the Legislative Analyst's Office (LAO) is required to evaluate and report to the Legislature on the implementation of the urban water conservation standards and water use reporting requirements established by the bill. By January 1, 2026, the chair of State Water Board and director of DWR are required to appear before the appropriate policy committees of both houses and report on the implementation of urban water conservation standards and water use reporting.

Enforcement

The bill authorizes the State Water Board, on and after November 1, 2023, to issue informational orders pertaining to water production, water use, and water conservation to an urban water supplier that does not meet its urban water use objective. Informational orders are intended to obtain information on supplier activities, water production, and conservation efforts in order to identify technical assistance needs and assist urban water suppliers in meeting their urban water use objectives. The bill authorizes the State Water Board, on and after November 1, 2024, to issue a written notice to an urban water supplier that does not meet its urban water use objective. The written notice may warn the urban water supplier that it is not meeting its urban water use objective and is not making adequate progress in meeting the urban water use objective, and may request that the urban water supplier address areas of concern in its next annual report. In deciding whether to issue a written notice, the State Water Board may consider whether the urban water supplier has received an informational order, the degree to which the urban retail water supplier is not meeting its urban water use objective, information provided in the annual report, and actions the urban water supplier has implemented or will implement in order to help meet its urban water use objective. Finally, the bill authorizes the State Water Board, on and after November 1, 2025, to issue a conservation order to an urban water supplier that does not meet its urban water use objective. A conservation order may consist of, but is not limited to, referral to DWR for technical assistance, requirements for education and outreach, requirements for local enforcement, and other efforts to assist urban retail water suppliers in meeting their urban water use objective. A

conservation order may include requiring actions intended to increase water-use efficiency, but shall not curtail or otherwise limit the exercise of a water right and shall not require the imposition of civil liability pursuant to section 377 of the Water Code.

Miscellaneous

The bill provides that an action of the State Water Board taken under the “Urban Water Use Objectives and Water Use Reporting” chapter will be exempt from California Environmental Quality Act (CEQA) review provided that the action does not involve relaxation of existing water conservation or water use standards.

The bill provides that no provision of the “Urban Water Use Objectives and Water Use Reporting” chapter can be construed to 1) determine or alter water rights; that Sections 1010 and 1011 of the water code apply to water conserved through implementation of this bill, 2) authorize the State Water Board to update or revise water use efficiency standards authorized by the “Urban Water Use Objectives and Water Use Reporting” chapter except as explicitly provided by this bill; authorization to update the standards beyond that explicitly provided by this bill will require separate legislation, or 3) limit or otherwise affect the use of recycled water as seawater barriers for groundwater salinity management.

The bill also expands local agency fining authority under Water Code section 377 to include violations of certain regulations adopted by the State Water Board related to the urban water use objective and emergency regulations.

Urban Water Management Planning Act Revisions:

SB 606 makes substantive revisions to the Urban Water Management Planning Act and the Water Shortage Contingency Plans (WSCPs) currently required under existing law.

Overview of Revisions

New requirements for urban water management plans (UWMPs) include that urban water suppliers provide simple descriptions of the reliability of its water supplies, the agency’s strategy for meeting its water needs, and other information necessary to provide a general understanding of the agency’s plan. UWMPs must contain a drought risk assessment that examines water shortage risks for a drought that will last five years. The bill requires that UWMPs be updated and submitted to DWR by July 1, every five years, and incorporate updated and new information from the five years preceding the UWMP update. An urban water supplier is required to prepare, adopt, and periodically review WSCPs as part of its UWMP. In the UWMP due July 1, 2021, and in each update thereafter, data must be included to show whether the urban water supplier met the distribution loss standards enacted by the State Water Board.

Urban Water Management Plans

Urban water suppliers now have a duty to ensure that their UWMP include an assessment of the reliability of its water service to its customers during normal, dry, and multiple dry water years. The UWMP must also include a drought risk assessment to compare the total water supply sources available

to the water supplier with the long-term total projected water use over the next 20 years, in five-year increments, for a normal water year, a single dry water year, and a drought lasting five consecutive water years. By January 1, 2024, each urban retail water supplier shall adopt and submit to DWR a supplement to the adopted plan to meet a targeted 20 percent reduction in per-capita urban water consumption by the year 2020 (2020 plan). The supplement must include information that describes the water demand management measures that the supplier plans to implement to achieve its urban water use objective. The bill specifies that the supplement is not an update or an amendment to the UWMP, so an urban water supplier is not required to comply with the public notice, hearing, and adoption requirements before submitting the information to the DWR.

The bill requires that the UWMP due July 1, 2021, and in each update thereafter, shall include data to show whether the urban retail water supplier met the distribution loss standards enacted by the State Water Board. When updating a UWMP to submit to DWR, urban water suppliers are now required to include, in the description of their UWMPs, social and economic factors that affect their planning. The description shall also include the current and projected land uses within the existing or anticipated service area affecting the supplier's UWMP. Urban water suppliers are required to coordinate with local or regional land use authorities to determine the most appropriate land use information and include land use information obtained from local or regional land use authorities, where appropriate. UWMPs must identify and quantify the existing and planned sources of water available to the supplier over the same five-year increments as the drought risk assessments, and provide supporting and related information that includes:

- 1) A detailed discussion of anticipated supply availability under a normal water year, single dry year, and droughts lasting at least five years, as well as more frequent and severe periods of drought, as described in the drought risk assessment. For each source of water supply, consider any information pertinent to the reliability analysis that is conducted under current law, including changes in supply due to climate change.
- 2) When multiple sources of water supply are identified, a description of the management of each supply in correlation with the other identified supplies.
- 3) For any planned sources of water supply, descriptions of the measures that are being undertaken to acquire and develop those water supplies.
- 4) The distribution system water loss shall be quantified for each of the five years preceding the UWMP update.
- 5) If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information must also be included in the UWMP:
 - a) The current version of any groundwater sustainability plan or adopted alternative and any groundwater management plan adopted by the urban water supplier, including plans adopted or any other specific authorization for groundwater management for basins underlying the urban water supplier's service area.
 - b) For a basin that has not been adjudicated, information as to whether DWR has identified the basin as a high or medium priority basin in the most current official departmental bulletin that characterizes the condition of the groundwater basin. A detailed description of the efforts being undertaken by the urban water supplier to

coordinate with groundwater sustainability agencies or groundwater management agencies to maintain or achieve sustainable groundwater conditions in accordance with a groundwater sustainability plan or adopted alternative.

- c) For an urban retail water supplier, quantify, to the extent records are available, past and current water use, over the same five-year increments as the drought risk assessments and projected water use, based upon the information required and developed in the UWMP description.

Current law requires a description of the supplier's water demand management measures. SB 606 now requires a narrative, in the newly required supplement, that describes the water demand management measures that the supplier plans to implement to achieve its urban water use objective by January 1, 2027. UWMPs must also include information that the urban water supplier can readily obtain relating to the energy used to extract or divert, treat or convey to a treatment plant, distribute, or store water supplies. The bill states that the Legislature finds and declares that energy use is only one factor in water supply planning and shall not be considered independently of other factors.

Annual Drought Risk Assessment Procedures

Urban water suppliers must conduct an annual drought risk assessment, and include information for anticipated shortage, triggered shortage response actions, compliance and enforcement actions, and communication actions consistent with their WSCP. Results from the assessment must be submitted to DWR.

DWR must prepare and submit to the State Water Board, by June 1 of each year, a report summarizing the submitted drought risk assessment results and appropriate reported water shortage conditions developed by DWR. Information must also be included in the report regarding various shortage response actions implemented as a result of water budget forecast assessments for the State Water Board to determine if noncompliance enforcement is necessary.

Water Shortage Contingency Plans

Every urban water supplier shall prepare and adopt a WSCP as part of its UWMP. WSCPs must include 1) annual drought risk assessment procedures, 2) six standard water shortage levels, 3) shortage response actions, 4) communication protocols and procedures, 5) a description of legal authorities that empower the urban water supplier to implement and enforce its shortage response actions, and 6) a description of the financial consequences of, and response for, drought conditions, among other things. More detail is provided on several of these categories below.

WSCPs must include the following criteria:

- 1) Annual Drought Risk Assessment Procedures: An urban water supplier shall conduct an annual drought risk assessment on or before June 1 of each year and submit the assessment to DWR. An urban water supplier that relies on imported water from the State Water Project or the Bureau of Reclamation shall submit its annual drought risk assessment within 14 days of receiving its final allocations, or by June 1 of each year, whichever is later. The written decision-

making process that an urban water supplier will use annually to determine water supply reliability must be included, along with key data inputs and assessment methodology used to evaluate the urban water supplier's water supply reliability for the current year and one dry year, including all of the following:

- (i) Current year unconstrained demand, considering weather, growth, and other influencing factors, such as policies to manage current supplies to meet demand objectives in future years, as applicable.
 - (ii) Current year available supply, considering hydrological and regulatory conditions in the current year and one dry year. The annual drought risk assessment may consider more than one dry year solely at the discretion of the urban water supplier.
 - (iii) Existing infrastructure capabilities and plausible constraints.
 - (iv) A defined set of locally applicable evaluation criteria that are consistently relied upon for each annual drought risk assessment.
 - (v) A description and quantification of each source of water supply.
- 2) Six Standard Water Shortage Levels: Urban water suppliers shall follow, where feasible and appropriate, the procedures in its WSCP and implement determined shortage response actions or reasonable alternative actions. Descriptions of the alternative actions must be submitted with the annual water shortage assessment report. Six standard water shortage levels corresponding to progressive ranges of up to 10, 20, 30, 40, and 50 percent shortages and greater than 50 percent shortage. Urban water suppliers shall define these shortage levels based on the suppliers' water supply conditions, including percentage reductions in water supply, changes in groundwater levels, changes in surface elevation or level of subsidence, or other changes in hydrological or other local conditions indicative of the water supply available for use. Shortage levels shall also apply to catastrophic interruption of water supplies, including, but not limited to, a regional power outage, an earthquake, and other potential emergency events.
- (i) An urban water supplier with an existing WSCP that uses different water shortage levels may comply with the shortage level requirements by developing and including a cross-reference relating its existing categories to the six standard water shortage levels.
 - (ii) An urban water supplier regulated by the Public Utilities Commission (PUC) shall include its most recent plan and WSCP as part of the supplier's general rate case filings.
- 3) Shortage Response Actions: Urban water suppliers must align with the defined shortage levels and include, at a minimum, all of the following and locally appropriate 1) supply augmentation actions, 2) demand reduction actions to adequately respond to shortages, 3) operational changes, and 4) mandatory prohibitions against specific water use practices that are in addition to state-mandated prohibitions, and appropriate to local conditions. The bill requires that for each action, an estimate of the extent to which the gap between supplies and demand will be reduced by implementation of the action. The bill also requires the governing body of a distributor of a public water supply to declare a water shortage emergency condition whenever it finds that the ordinary demands and requirements of water consumers cannot be satisfied

without depleting the water supply of the distributor to the extent that there would be no water for human consumption, sanitation, and fire protection.

- 4) *Communication Protocols and Procedures*: Urban water suppliers must make WSCPs available to inform customers, the public, interested parties, and local, regional, and state governments regarding any current or predicted shortages determined by the annual drought risk assessment. Any shortage response actions triggered, or anticipated to be triggered by the annual drought risk assessment, must also be made available to all parties and stakeholders. The bill also revises the funding restrictions on non-compliant water agencies to match that which applies to the agricultural water management plans outlined in AB 1668. The bill makes an urban water supplier ineligible to receive any water grant or loan unless the urban water supplier complies with the requirements relating to UWMPs.
- 5) *Descriptions of the Legal Authorities*: Must empower the urban water supplier to implement and enforce its shortage response actions that may include, but are not limited to:
 - (i) Statutory authorities, ordinances, resolutions, and contract provisions.
 - (ii) A statement that an urban water supplier shall declare a water shortage emergency.
 - (iii) A statement that an urban water supplier shall coordinate with any city or county within which it provides water supply services for the possible proclamation of a local emergency.
- 6) *A Description of the Financial Consequences*: Must include responses for drought conditions, including, but not limited to, descriptions of all of the following:
 - (i) Potential revenue reductions and expense increases associated with activated shortage response actions.
 - (ii) Mitigation actions needed to address revenue reductions and expense increases associated with activated shortage response actions.
 - (iii) Cost of compliance.

WSCPs must include monitoring and reporting requirements and procedures that ensure appropriate data is collected, tracked, and analyzed for purposes of monitoring customer compliance and to meet state reporting requirements. Urban water suppliers shall also reevaluate and explore improvement procedures for monitoring and evaluating the functionality of the WSCP in order to ensure shortage risk tolerance is adequate, and appropriate water shortage mitigation strategies are implemented as needed. For purposes of developing the WSCP, an urban water supplier shall analyze and define water features that are artificially supplied with water, including ponds, lakes, waterfalls, and fountains, separately from swimming pools and spas.

The bill states the intent of the Legislature that, upon proclamation by the Governor of a state of emergency under the California Emergency Services Act based on drought conditions, the State Water Board defer to implementation of locally adopted WSCPs to the extent practicable. This bill will not prohibit an urban water supplier from taking actions not specified in its WSCP, if needed, without having to formally amend its UWMP or WSCP. Further, urban water suppliers are required to make the WSCP, no later than 30 days after adoption, available to its customers as well as any city or county in which it

provides water supplies, and if an urban water supplier revises its WSCP, a copy of the updated version must be submitted to DWR no later than 30 days after adoption.

AB 1668 Contingency and Implementation:

The bill includes language that the enactment and implementation of SB 606 are contingent upon the enactment of AB 1668 (Friedman).



TWO COMPLEMENTARY WATER BONDS WILL GO BEFORE VOTERS IN 2018

As securing California's water future becomes increasingly challenging, ensuring funding to mitigate the results of climate change, aging infrastructure, natural disasters and population growth are more important than ever. In response to those challenges, voters will have the opportunity to approve two general obligation bonds in 2018. One measure will appear on the June 2018 ballot, and the other measure will likely appear on the November 2018 ballot.

The two measures are complementary and, if approved, would work together to fund water-related projects intended to provide safe drinking water to disadvantaged communities, improve water supply reliability, help implement the Sustainable Groundwater Management Act (SGMA) and restore watersheds.

In recognition of the need for this funding, the Association of California Water Agencies (ACWA) Board of Directors voted unanimously to support both bonds.

The California Drought, Water, Parks, Coastal Protection, and Outdoor Access for All Act of 2018, will be placed on the June 2018 ballot as Proposition 68. This legislative bond measure resulted from the passage with bipartisan support of SB 5 (de León, 2017). This measure would authorize \$4.1 billion in general obligation bonds to finance water and park projects, climate change preparedness, coastal protection, and outdoor access.

Examples of its water project funding include money for safe drinking water for disadvantaged communities and funding for SGMA implementation.

The State Water Supply Infrastructure, Water Conveyance, Ecosystem and Watershed Protection and Restoration and Drinking Water Protection Act of 2018 (the November bond) is an \$8.9 billion water bond initiative measure. Initiative backers are currently completing the signature collection process to qualify the measure for placement on the November 2018 ballot. This bond would fund a wide range of water projects from safe drinking water projects to SGMA implementation and watershed improvements.

Though two separate measures, both would work together as a complementary pair to appropriate funding to a variety of needed projects. Together, they would provide more than \$10 billion for drought preparedness projects, flood protection, safe drinking water, implementation of the Sustainable Groundwater Management Act, and other projects that will improve water supply reliability and ecosystem health.

The Association of California Water Agencies Board of Directors voted unanimously to support both bonds.

INVESTMENT IN THE CALIFORNIA WATER ACTION PLAN

The California Water Action Plan of 2014, was a major step in the right direction during California's most severe drought in recent history. The multi-prong plan, whose roots stem from ACWA's Statewide Water Action Plan (SWAP), outlines priority actions addressing water conservation, groundwater management, ecological restoration, Delta conveyance solutions, water storage, safe drinking water and more.

Since 2014, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (also known as Proposition 1) has provided much needed investment in water supply reliability and ecosystem health projects and has also leveraged local and federal cost share funds.

Much like Proposition 1, both 2018 bonds, if approved, would result in an influx of local investment. Except for the storage component, pending qualification for bond funds, it's expected most of the money from Proposition 1 will be committed by 2019. As such, Proposition 68 and the November bond will help replenish the soon-to-be depleted funding source.

ACWA believes the two bonds are complementary initiatives that would serve California tremendously and help build upon the successes of Proposition 1. Enactment of the measures would secure further investment in the California Water Action Plan.





FUNDING THE FUTURE OF SUSTAINABLE GROUNDWATER MANAGEMENT

The Sustainable Groundwater Management Act of 2014 (SGMA) established a new program for management of California's groundwater. SGMA required the formation of local Groundwater Sustainability Agencies (GSAs). It requires GSAs to develop and implement Groundwater Sustainability Plans (GSPs) that are consistent with Department of Water Resources' GSP regulations. This is a complex program that is very challenging and costly to implement.

The Legislature passed SGMA and the bill (AB 1471, Rendon, 2014) that became Proposition 1 (the 2014 Water Bond) in the same year. Because the bills that comprised SGMA and AB 1471 were being written and

moved through the Legislature at the same time, the funding for SGMA implementation was added late in the bond negotiation process. As a result, Proposition 1 included only \$100 million for SGMA implementation. The Legislature recognized then that more funding was needed. Essentially all of the remaining Proposition 1 SGMA funding is being committed in 2018.

The writers of Proposition 68 and the November bond recognized that additional bond funding was needed for SGMA implementation. Proposition 68 and the November bond would provide \$50 million and \$640 million, respectively, for SGMA implementation.

Essentially all of the remaining Proposition 1 SGMA funding is being committed in 2018.

WATER BONDS FUNDING COMPARISON

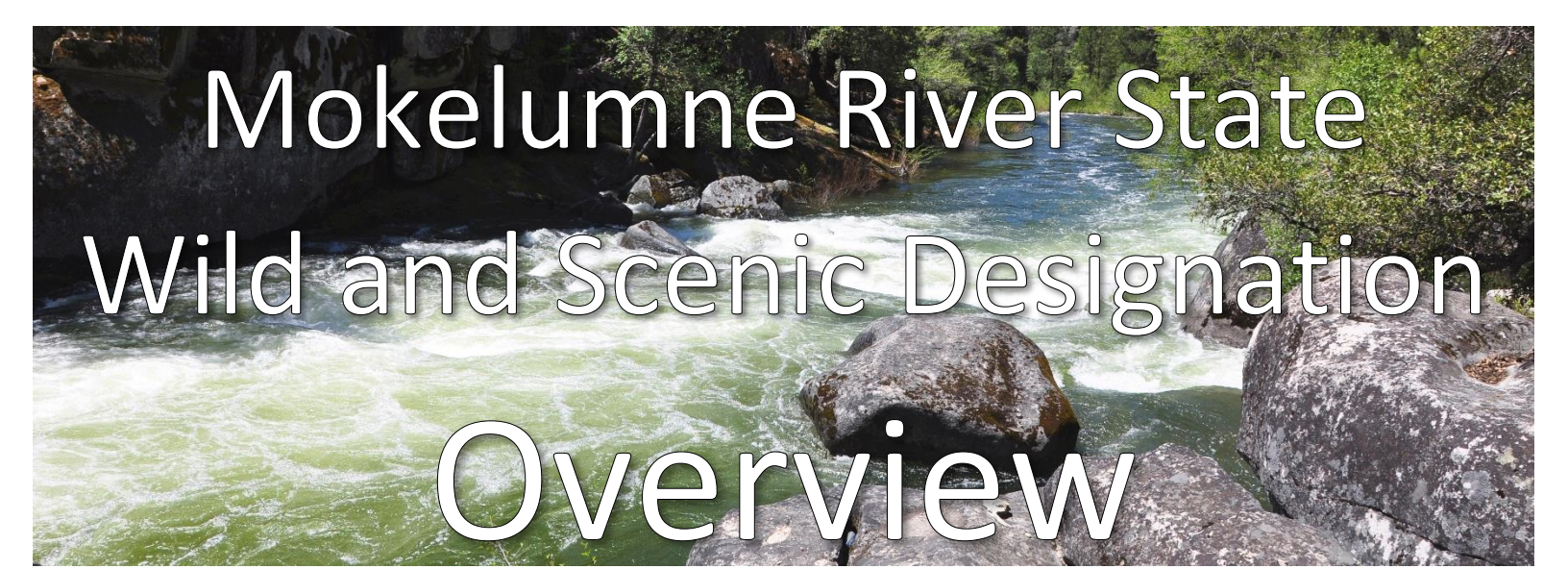
Funding Category	Proposition 68 \$4.1 B (June Ballot)	November Bond \$8.9 B
	Funding in Millions	Funding in Millions
Forest Protection	\$110	\$120
Recycled Water and Desalination	\$80	\$800
Safe Drinking Water (and Wastewater)	\$330	\$750
SGMA Implementation	\$50	\$640
Conservation	\$20	\$365
Flood Management	\$550	\$500
Stormwater	\$100	\$400
Oroville Dam Safety	\$0	\$222
Madera & Friant-Kern Canals Improvements	\$0	\$750

This is a highlight comparison of the funding categories in the two water bonds. This is not a complete list of the funding categories.

This publication is intended to provide general information about how Proposition 68 and the proposed November water bond would affect ACWA member agencies. Readers are encouraged to research the opponents' and proponents' views on both bonds.

FOR MORE INFORMATION

Questions about the two water bonds may be directed to ACWA Deputy Executive Director for Government Relations **Cindy Tuck** at cindyt@acwa.com.



Mokelumne River State Wild and Scenic Designation Overview

In 2015, AB 142 (Bigelow) was enacted by the State Legislature and signed by the Governor. The bill tasked the California State Natural Resources Agency (CNRA) with studying 37 miles of the upper Mokelumne River, from just downstream of Salt Springs Reservoir to just upstream of Pardee Reservoir, to determine the river's suitability for designation into the California Wild and Scenic Rivers System, with special consideration of local communities' water supply needs. An in-depth analysis examined the impacts such a designation would have on local water districts that divert water from the river, which include Amador Water Agency, Jackson Valley Irrigation District, Calaveras Public Utility District and Calaveras County Water District (the Agencies).

The Agencies and environmental groups provided detailed input to CNRA staff to help inform the study. The [final report](#), released on April 18, 2018, found all segments of the Mokelumne River that were studied are suitable for state wild and scenic designation, subject to special provisions designed to meet the current and future water supply needs of local communities served by the Agencies. This designation would prevent the construction of an on-stream dam on the protected sections of river, which protects Amador and Calaveras counties from any upstream expansion of Pardee Reservoir and the threat of a deep-pocketed, out-of-area agency building a dam to take water for use outside the area.

Within the study are five special provisions that protect the water rights and water supply infrastructure of the Agencies and the people they serve. The language in these provisions was agreed upon in a collaborative effort between the Agencies, the Foothill Conservancy, Friends of the River, the East Bay Municipal Utility District and the CNRA. The Agencies are grateful to Assemblyman Bigelow for his leadership with AB 142 and the staff members at CNRA for their hard work on the report and attention to stakeholder concerns.

Summary of Special Provisions

Special Provision 1: Ensures that the wild and scenic designation will not impact the Agencies' existing water rights or water supply infrastructure.

Special Provision 2: Provides a pathway for the Agencies to obtain new water rights as needed in the future.

Special Provision 3: Ensures the designation won't interfere with PG&E's hydro-power project or Roaring Camp Mining Company's operations or facilities.

Special Provision 4: Prevents the State of California from requesting that the U.S. Secretary of the Interior add the 37-mile section of the Mokelumne River to the federal wild and scenic river system.

Special Provision 5: Ensures if there is any conflict with other provisions in the California Wild and Scenic Rivers Act, these special provisions shall control.

To read the full text of the final CNRA report, go to http://resources.ca.gov/wp-content/uploads/2018/04/WS-Final-Report_033018.pdf. To read the full text of the special provisions, go to page 224 and 225 of the [report](#).

Next steps

Stakeholders will work together to identify members of the State Legislature and Administration to introduce legislative language that would add the 37-mile section of the Mokelumne River into the California Wild and Scenic Rivers System and include all five, broadly supported special provisions to protect local water rights and water systems.

More information

- Gene Mancebo, Amador Water Agency: (209) 223-3015
- Joel Metzger, Calaveras County Water District: (209) 754-3123
- Donna Leatherman, Calaveras Public Utility District: (209) 754-9442
- Steve Fredrick, Jackson Valley Irrigation District: (209) 274-2037
- Richard Sykes, East Bay Municipal Utility District: (866) 403-2683
- Katherine Evatt, Foothill Conservancy: (209) 223-3508
- Steve Evans, Friends of the River: (916) 442-3155

our members on AB 947 in its amended form (4/17/17 version). The bill did not end up moving after that point in time.

ACWA's SLC took a "Support if Amended" position on the introduced version of AB 2545 at the March 23 SLC Meeting. The primary concern by some ACWA members is that the definition of "river" and "stream" should not apply to man-made infrastructure. Several ACWA members worked with the California Farm Bureau (sponsor) and the author to develop language. However, the author called for all stakeholders to express their concerns on the bill by hosting a stakeholder meeting, which included a number of opponents to the bill.

The May 25 version of the bill removes the statutory definition of "river" and "stream" and would require DFW to include guidance on the definition of the terms "river" and "stream" in the general agreements. On January 2, 2018, DFW promulgated regulations on a general lake and stream bed alteration agreement (LSAA) for cannabis cultivation. In those regulations "river" and "stream" were defined, for purposes of an LSAA for the first time. This bill would mimic the structure of the cannabis cultivation regulations, requiring DFW to establish additional general agreements.

Recommended Position: Support

AB 2649: Water rights: water management		
Author: Arambula	Introduced: 02-15-18	Amended: 05-25-18
Sponsors:	Supporters: Allied Grape Growers, City of San Joaquin, Fresno Chamber of Commerce, Tulare County Board of Supervisors, Fresno Irrigation District	Opposition: Audubon California, Clean Water Action, Defenders of Wildlife, Natural Resources Defense Council, Sierra Club California, Environmental Defense Fund
Assigned to: Whitney Wiley/Melissa Sparks		Current Position: Watch Recommended Position: Pending Committee Input

Summary: Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

As introduced, AB 2649 would state the intent of the Legislature to enact legislation to increase groundwater recharge.

As amended on March 22, 2018, the bill would require the State Water Board to prioritize a temporary permit for a project that enhances the ability of a local or state agency to capture high precipitation events for local storage or recharge, consistent with water rights priorities and protection of fish and wildlife. The bill would exempt temporary permits for these types of storage or recharge projects from the California Environmental Quality Act (CEQA). The bill would require the State Water Board to set a reduced application fee for an applicant for a temporary permit for these projects.

As amended on April 4, 2018, the bill would add the declaration that groundwater recharge, groundwater banking, or both, undertaken pursuant to or consistent with an adopted groundwater sustainability plan authorized by a groundwater sustainability agency, be considered a beneficial and reasonable use of water consistent with Section 2 of Article X of the California Constitution.

As amended on April 25, 2018, the bill would declare that the diversion of water to underground storage, including the diversion of water for groundwater recharge, constitutes a diversion of water for beneficial use for which an appropriation may be made if the diverted water is put to beneficial use. The bill would state that the beneficial use of water diverted to underground storage is not limited to uses requiring subsequent extraction or release of the stored water and may include beneficial uses such as protection of water quality made while the water is in underground storage. The bill would declare that forfeiture periods in existing statute would not include any period when the water is being used in the aquifer or storage area or when being held in underground storage for later application to beneficial use.

The bill would remove the declaration that groundwater recharge, groundwater banking, or both, undertaken pursuant to or consistent with an adopted groundwater sustainability plan authorized by a groundwater sustainability agency, be considered a beneficial and reasonable use of water consistent with Section 2 of Article X of the California Constitution.

Summary of Amendments: As amended May 25, 2018, the amendments would clarify that diverting water for groundwater recharge consistent with the applicable permit or license is authorized, if the diverted water is put to beneficial use.

Staff Comments: For the history and detailed analyses of the prior versions of the bill, please review the analysis of the April 25 version in the May 4, 2018, Bill Packet 2.

The amendments in the May 25 version of the bill provide clarifying language related to the diversion of water for groundwater recharge consistent with the applicable permit or license, if the diverted water is put to beneficial use. The amendments were requested by the water contractors and downstream water users and as accepted by the author removed their opposition to the bill. However, those same amendments created concerns with ACWA's upstream member agencies. Among the concerns is the potential to impact the rights of those who hold pre-1914 water rights. In response to the May 25 amendments, the upstream users

proposed subsequent amendments that downstream users expand pre-1914 water rights and uses beyond what is contemplated under the law.

The attached mock-up amendments are the result of feedback and input to the articulated concerns with the bill in print. Specifically the mock-up:

- 1) Addresses specific forfeiture language related to pre-1914 water rights holders so those water rights holders can use their existing water rights for groundwater recharge consistent with the applicable permit or license; and specifying conditions for post-1914 water rights holders to store water underground, constituting a beneficial use of water, under current forfeiture laws and consistent with how the appropriation was made;
- 2) Clarifies the goal is to capture water during periods with high runoff; and
- 3) Clarifies the conditions related to the State Water Board issuing temporary permits, so as to not allow a temporarily permitted diversion of water at any time if the natural flows are insufficient in meeting instream flow requirements at the time the permit is issued.

ACWA currently has a “Watch” position on the bill. The attached amendments are a negotiated settlement between some of the upstream and downstream interests and would continue to allow downstream interests to remain neutral, while keeping the upstream interests from potentially opposing the bill due to the offending language. Pending receiving additional input from ACWA members outside the work group who haven’t been following this issue closely, there could be need for other or modifications to the amendments presented here.

While prior opposition is fine with the attached amendments and will remain neutral if accepted by the author, they do not want to see ACWA support the bill. On the other hand, one of the stated policy goals of the Association’s Strategic and Business Plan is that ACWA will lead by identifying strategies to increase groundwater replenishment and a number of member agencies see this legislation as an opportunity to do just that.

To encourage the broadest possible discussion of this issue and to ensure any additional amendments needed to address any remaining concerns beyond those expressed here, staff is leaving ACWA’s position open pending committee input.

Recommended Position: Pending Committee Input

Association of California Water Agencies Mock-Up of
Proposed Amendments to AB 2649, as amended 5/25/18

1242.

(a) For appropriations other than under the Water Commission Act or this code, the storing of water underground, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of such storage, constitutes a beneficial use of water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

(b) ~~Consistent with the applicable permit or license~~ For an appropriation under a permit or license, any diversion of water to underground storage, including the diversion of water for groundwater recharge, constitutes a diversion of water for beneficial use if the diverted water is put to beneficial use consistent with this division. The beneficial use of water diverted to underground storage is not limited to uses requiring subsequent extraction or release of the stored water and may include beneficial uses such as protection of water quality made while the water is in underground storage. ~~The forfeiture periods in Sections 1240 and 1241 do not include any period when the water is being used in the aquifer or storage area or is being held in underground storage for later application to beneficial use.~~

(c) For appropriations under ~~this subsection (b) Section~~, the forfeiture periods in Sections 1240 and 1241 do not include any period when the water is being used in the aquifer or storage area or is being held in underground storage for later application to beneficial use.

SEC. 2.

Section 1426 of the Water Code is amended to read:

1426.

(a) The application for a temporary permit shall be completed in accordance with the provisions of Section 1260 and shall be accompanied by such maps, drawings, and other data as may be required by the board.

(b) An applicant for a temporary permit shall pay an application fee, and a permit fee if a temporary permit is issued, both computed in accordance with the provisions of Chapter 8 (commencing with Section 1525) of this part. The board shall set a reduced application fee for an applicant for a temporary permit for a project that enhances the ability of a local or state agency to capture *water during* high ~~precipitation runoff~~ events for local storage or recharge.

SEC. 3.

Section 1432 is added to the Water Code, to read:

1432.

(a) The board shall prioritize a temporary permit for a project that enhances the ability of a local or state agency to capture water during high ~~precipitation-runoff~~ events for local storage or recharge, consistent with water rights priorities and protections for fish and wildlife.

(b) The board shall condition any temporary permit issued pursuant to this section to prohibit the diversion of water at any time natural flow is insufficient to meet senior water rights, ~~existing~~ instream flow *requirements existing at the time the permit is issued*, and water quality objectives or standards.

(c) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to actions by the board on a temporary permit for a project that enhances the ability of a local or state agency to capture *water during* high ~~precipitation-runoff~~ events for local storage or recharge.