

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

SB 366 (Caballero) – As Amended June 13, 2024

**SENATE VOTE:** 40-0

**SUBJECT:** The California Water Plan: long-term supply targets

**SUMMARY:** Revises and recasts requirements for the contents of the California Water Plan, requires the Department of Water Resources (DWR) to develop a long-term water supply planning target for 2050, and establishes an interim target to develop an additional 10 million acre-feet (AF) of water by 2040. Specifically, **this bill:**

- 1) Recasts the California Water Plan as a comprehensive plan for addressing the state's water needs and meeting the long-term water supply targets established by this bill. Provides that the plan shall include recommendations and strategies to ensure enough water supply for all designated beneficial uses.
- 2) Requires DWR to coordinate with the California Water Commission, the State Water Resources Control Board, other appropriate state and federal agencies, and a stakeholder advisory committee to develop the California Water Plan.
- 3) Requires DWR to update the California Water Plan by December 31, 2028 and to include additional strategies such as groundwater recharge, improved regional and statewide conveyance, stormwater capture, compliance with the Delta Reform Act of 2009, and demand management that can be implemented to achieve the water supply target established by this bill and the coequal goals for the Sacramento-San Joaquin Delta.
- 4) Requires the California Water Plan to include a discussion of options to finance projects to implement the various strategies in the plan, how to maximize the strategy for long-term sustainability, and how innovation and research can spur the implementation of each strategy.
- 5) Clarifies that the California Water Plan shall not require a public water system, irrigation district, or wastewater service provider to implement a specific strategy or project.
- 6) Requires, beginning with the 2028 update, the California Water Plan to include the following components:
  - a) A discussion of strategies that may be pursued to meet the water supply target developed by DWR pursuant to this bill. This section of the plan shall also discuss options to finance the various strategies outlined, discuss the pros and cons of each strategy, and identify the permits, approvals, and entitlements necessary for each strategy;
  - b) A discussion of environmental needs, including regulatory instream flow requirements, nonregulated instream uses, and water needs by wetlands, preserves, refuges, and other managed and unmanaged natural resource lands;

- c) A discussion of urban sector water needs, including maintaining tree health, residential and commercial landscapes, single-family and multifamily housing needs, community open green spaces, and a world class economy;
  - d) A discussion of agricultural water needs, including maintaining a viable and sustainable food supply, restoring groundwater tables, agricultural water use efficiency, surface water reliability for irrigation purposes, and an assessment of communities that rely directly and indirectly on agricultural activities for their livelihood;
  - e) A cost-benefit analysis of achieving the water supply target required by this bill. The cost-benefit analysis shall take into account the water needs of the economy and disadvantaged communities and the water required by regulation to protect the environment. Provides DWR shall consider and incorporate, if appropriate, existing studies or planning documents that quantify the costs and impacts of inadequate water supplies; and
  - f) A report on the development of regional and local water projects to improve water supplies to meet municipal, agricultural, and environmental water needs, the targets set by this bill, and minimize the need for regions to import water.
- 7) Requires DWR to submit an annual report to the Legislature between updates to the California Water Plan on progress towards meeting the water supply targets required by this bill. The progress report shall include a list of actions that require legislative action and those that can be implemented by DWR.
- 8) Requires DWR to consult with the California Water Commission in establishing the stakeholder advisory committee to provide input on updates to the California Water Plan.
- 9) Adds representatives from tribes, environmental justice interests, and the building and construction trades to the stakeholder advisory committee established by DWR to assist in the update of the California Water Plan and requires DWR to accept applications for the stakeholder advisory committee before each update in order to ensure balanced representation on the stakeholder advisory committee.
- 10) Requires DWR to seek information from water agencies and other stakeholders impacted by the California Water Plan as well as researchers and scientists.
- 11) Requires DWR to conduct a series of public hearings to provide opportunity for comment in regions that have been impacted by drought as part of the process to prepare an update to the California Water Plan.
- 12) Provides that nothing in the California Water Plan shall be construed as a regulatory requirement.
- 13) Requires DWR, as part of the 2028 update to the California Water Plan, to conduct a study to determine the amount of additional water needed to meet the state's future water needs and to establish a long-term target for 2050. The target shall ensure sufficient water for all beneficial uses, take into account impacts of climate change, be sufficient to support a sustainable economy and environment, and ensure safe drinking water for all Californians.

- 14) Requires DWR, in developing the long-term target, to develop assumptions and estimates relating to:
  - a) The supplies needed to meet environmental requirements at the time of the update;
  - b) Current and projected water and infrastructure needs of disadvantaged communities served by public water systems, state small systems, and individual domestic wells; and
  - c) Climate change impacts by region and resulting water supply trends, including changes in timing and intensity of snowmelt runoff.
- 15) Provides that DWR shall include an interim water supply planning target of 10 million AF of additional water by 2040 in the 2028 update to the California Water Plan.
- 16) Makes findings and declarations regarding the importance of water to California's communities, economy, and environment and hydrologic challenges posed by climate change.

**EXISTING LAW:**

- 1) Provides that the California Water Plan is the master plan that guides the orderly and coordinated development, management, and efficient utilization of the water resources of the state. Requires DWR to update the Water Plan every five years (Water Code § 10004 *et seq.*).
- 2) Requires DWR, as a part of updating the California Water Plan, among other things, to:
  - a) Establish an advisory committee, comprised of representatives of agricultural and urban water suppliers, local government, business, production agriculture, and environmental interests, and other interested parties, to assist DWR in updating the California Water Plan [Water Code § 10004(b)(2)].
  - b) Conduct a study to determine the amount of water needed to meet the state's future needs and to recommend programs, policies, and facilities to meet those needs [Water Code § 10004.6(a)].
  - c) Include a discussion of strategies to meet the state's future water needs (Water Code § 10004.5).
- 3) Requires DWR, one year before issuing each update to the California Water Plan, to release a preliminary draft of the assumptions and other estimates upon which the study will be based, to interested persons and entities throughout the state for their review and comments. Prescribes a broad list of subjects on which DWR is required to release those assumptions and estimates, including hydrology, groundwater conditions, land use patterns, conservation practices, environmental water needs, demographic projections, etc. (Water Code § 10004.6(c)).
- 4) Requires DWR to conduct a series of noticed hearings with interested persons, organizations, local, state, and federal agencies, and representatives of the diverse geographical areas and interests of the state (Water Code § 10005.1).

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal.

**COMMENTS:**

- 1) **Purpose of this bill.** According to the author, “A reliable and sustainable water supply is critical to every aspect of California’s economy and the quality of life for all Californians. While recent storms have been helpful, a combination of factors, including the driest three-year period in 1,200 years, aging infrastructure, growing population and economy, antiquated state policies, and climate change, have created a challenge that threatens the survival of some communities and sectors of the economy and jobs. Despite decades of work to improve California’s water system, our infrastructure remains inadequate to meet present needs and is woefully unprepared to meet future needs. [This bill] would establish necessary water supply targets to capture and produce enough water for all uses, including communities, agriculture, and the environment, by modernizing the California Water Plan for a 21st century climate. [This bill] would also update the requirement that state agencies develop a plan to achieve set targets, in consultation with local water agencies, wastewater service providers and other stakeholders. This bill is an important part of a comprehensive, long-term water supply solution that will transform water management for generations to come.”

This bill’s sponsors [the California Municipal Utilities Association, the California State Association of Counties, and the California Council for Environmental and Economic Balance (CEEB)] commissioned a study by UC researchers that estimates “total reduction in average water availability in the coming decades will likely range from 4.6 to 9 million acre-feet per year.” The sponsors assert the targets in this bill are necessary to address this shortfall. The study also notes “perhaps 20-30% of this loss will likely be addressed by ongoing water conservation and supply improvements, being planned and implemented, leaving a 3 – 7.2 million acre-feet/year likely net average difference between statewide water demands and availability.”

- 2) **Background.** The California Water Plan is “the master plan which guides the orderly and coordinated control, protection, conservation, development, management and efficient utilization of the water resources of the state.” As a part of updating the California Water Plan every five years, DWR is required to include a discussion of various strategies, including those relating to the development of new water storage facilities, water conservation, water recycling, desalination, conjunctive use, and water transfers that may be used to meet future water needs of the state. Inclusion of a particular project or strategy does not constitute approval of or state financing for said project or strategy without further legislative action. As part of the update to the California Water Plan, DWR must also conduct a study to determine the amount of water needed to meet the state’s future needs and to recommend programs, policies, and facilities to meet those needs.

According to DWR, the development of the California Water Plan dates back to the late 1800s. The first plan, which covered ideas for water distribution in the state, was put together in 1873. Subsequent reports were issued through the decades as DWR bulletins. The initial California Water Plan (known as Bulletin 3) was released in 1957 and was intended for “control, protection, conservation, distribution, and utilization of all the waters of California, to meet present and future needs for all beneficial uses and purposes in all areas of the state to the maximum feasible extent.” Bulletin 3 and subsequent updates were mostly technical

documents focused on water supply development. Over time, the plans were gradually expanded to reflect the growing conflicts over California's limited water resources. Since the 1998 update, the California Water Plan has moved from a technical document focused on water supply development to an evaluation of options for addressing significant water issues in California.

*2023 update.* DWR released the final version of the 2023 update to the California Water Plan in April of this year. Major themes of the 2023 update are addressing climate urgency, strengthening watershed resilience, and equity. The 2023 update indicates that total "applied" water use (urban, irrigated agriculture, and environmental water) ranged from 64.2 million AF to 90.6 million AF between the years 2016 and 2020. To address the water challenges facing California, the 2023 update outlines seven objectives; 23 recommendations are embedded in these objectives and a total of 74 actions are embedded in the recommendations. The 2023 update incorporates the Governor's target to close the "evaporative gap" (see below).

*California's Water Supply Strategy, Adapting to a Hotter, Drier Future.* In August 2022, Governor Newsom released this strategy to address a projected 10% decrease in water supply (6 million AF to 9 million AF of water) by 2040 due to climate change. To address this shortfall, the strategy sets various targets to generate new water supply, reduce demand, and develop additional water storage by 2040. Those targets are:

- New supply: 2.4 million AF to be achieved through increased water recycling (1.819 million AF), desalination (84,000 AF), and stormwater capture (500,000 AF).
- Demand reduction: 500,000 AF through increased water conservation.
- Expanded water storage: 4 million AF of surface water and groundwater storage.

In total, the strategy identifies 2.9 million AF of "new" water and 4 million AF of increased storage capacity to "close the evaporative gap;" however, the Governor's strategy also includes an important caveat that "additional storage capacity does not equate to a similar volume of new water supply." The distinction between "new water" and expanded storage is important and one that this bill does not make. The expansion of water storage will be necessary to adapt to climate change, but it will only be filled when water is available given hydrologic conditions and must be consistent with existing water rights, water quality standards, and other regulations.

- 3) **Arguments in support.** CEEB asserts that California must take steps to modernize California's water system and make the state more resilient to climate change. CEEB argues that this bill will help with this goal and "modernize the California Water Plan to reflect the state's new climate reality and establish an interim long-term water supply target for 2040 and have [DWR] evaluate and set a 2050 target that, when met, will help ensure sufficient, high-quality water for all beneficial uses into the future." CEEB maintains that this bill will codify some of the Governor's targets in the "California's Water Supply Strategy" released in August 2022.
- 4) **Arguments in opposition.** The Mono Lake Committee opposes this bill arguing that its interim target for developing 10 million AF of new water by 2040 is flawed and that this bill downplays the other important objectives outlined in the 2023 update to the California Water Plan that will be necessary to adapt to climate change, "all seven management objectives in

Update 2023 are equally important. Creating more equitable and climate-resilient water systems requires an ‘all of the above’ approach. This bill, by drawing special attention to just one objective, inappropriately diminishes the importance of the other six. And this issue cannot be addressed by amendment unless the references to water supply planning interim targets are completely amended out of this bill.”

- 5) **Suggested committee amendments.** The Committee may wish to request that the author consider amendments to address the following issues raised by this bill:

*Inclusion of co-equal goals for the Delta in water supply targets?* The co-equal goals for the Delta are water supply reliability and protection, restoration, and enhancement of the Delta ecosystem. These goals are not about a specific quantity of water and it is not clear why this bill includes this reference in the context of the water supply targets. The Committee may wish to request that the author take the following amendments to strike references to co-equal goals for the Delta:

#### **Amendment 1**

10004. (a) The department shall develop a comprehensive plan for addressing the state’s water needs and meeting the long-term water supply targets established in Section 10004.6, which shall be known as “The California Water Plan.” The plan shall provide recommendations and strategies to ensure enough water supply for all designated beneficial uses, ~~*including, but not limited to, compliance with Division 35 (commencing with Section 85000).*~~

#### **Amendment 2**

(d)(1)(A) A discussion of various strategies, including, but not limited to, those relating to the development of new water storage facilities, water conservation, groundwater recharge, water recycling, desalination, conjunctive use, conveyance, stormwater capture, water transfers, ~~*compliance with Division 35 (commencing with Section 85000),*~~ and demand management activities that may be pursued in order to meet the water supply targets developed by the department ~~*and the coequal goals for the Sacramento-San Joaquin Delta.*~~

*Limitation on analysis of water needs of the environment.* Recent amendments narrow the consideration of environmental water needs to only those “required by regulation.” This is in the context of a cost-benefit analysis of the strategies to achieve the target set by this bill. This limiting language would prevent a full accounting of the trade-offs associated with implementing a given strategy. It is not clear why it would be desirable for the California Water Plan to do so. The Committee may wish to request that the author take the following amendment:

#### **Amendment 3**

10004. (d)(5) An analysis of the costs and benefits of achieving the water supply targets developed by the department or established in statute, including a cost-benefit analysis of various strategies and projects necessary to meet those supply targets. The cost-benefit analysis shall take into account the water needs of the economy and disadvantaged communities, and the ~~*water supplies required by regulation to protect the*~~ environment. The department shall also consider and incorporate into the analysis, if appropriate, existing

studies or planning documents that quantify the costs and impacts to the state if it has inadequate water supplies to meet sustainable demands for all sectors.

*Legislature's prerogative.* This bill includes a provision that the Legislature may hold a hearing a progress report on achieving this bill's water supply targets. This does not need to be codified given that the Legislature always has the authority to conduct oversight hearings on topics of its choosing. The Committee may wish to request that the author take the following amendment to amend strike the provision permitting the Legislature to hold hearings on the California Water Plan:

#### **Amendment 4**

10004(f)(2) The department shall submit to the Legislature an annual report between updates to the plan that includes progress made toward meeting the water supply targets once established. ~~*The Legislature may hold a hearing to review and accept public testimony on the report.*~~ The report shall include the list of recommended actions that require legislative intervention and those that can be implemented by the department or other state agencies. The written report shall be posted on the department's internet website.

*Discussion of environmental water needs.* Similar to discussion under "Amendment 2," this bill significantly narrows how the California Water Plan is to discuss environmental water needs by only focusing water supply necessary to meet regulatory requirements. In many cases, rivers in California do not have environmental flow requirements (Public Policy Institute of California, 2020). Given this, the myopic approach of only accounting for "environmental requirements" could vastly underestimate environmental water needs. It is unclear why the state would want to do this given the widespread declines of California's diverse aquatic ecosystems and species. The Committee may wish to request that the author take the following amendments to retain existing law regarding discussion of environmental water needs in the California Water Plan:

#### **Amendment 5**

10004.6. (a)(4) ~~*Environmental water needs*~~~~*The supplies needed to meet environmental requirements at the time of the update,*~~ including regulatory instream flow requirements, nonregulated instream uses, and water needs by wetlands, preserves, refuges, and other managed and unmanaged natural resource lands.

*Interim water supply target.* This bill's interim target of 10 million AF of additional water by 2040 is arbitrary and differs from the Governor's August 2022 target in that it conflates "new" water, water saved through conservation efforts, and increased storage capacity. In contrast, the Governor's strategy distinguishes between the three, calling for 2.4 million AF of new water supply, 500,000 AF of conservation, and 4 million AF in new storage capacity (above and below ground). A further consideration regarding these solutions is the cost and feasibility of implementing any or all of these options to address water shortages. It may not be desirable to replace every drop of water lost due to climate change; as the UC researchers note in the analysis procured by this bill's sponsors: "Some water scarcity is unavoidable for California. The economic, financial, and environmental costs of eliminating all water scarcity would certainly exceed its benefits. Tailoring portfolios of actions can greatly reduce water scarcity costs to economically and environmentally responsible levels." The Committee may wish to request that the author take the following amendment to reduce the

interim target to 9 million AF and clarify that it can be achieved by developing new water supplies, demand management, or development of storage capacity:

### Amendment 6

(c) As part of the 2028 update to the plan, the department shall include ~~a~~ *an interim water supply* planning *interim* target of *9,000,000-10,000,000* acre-feet of additional water, *water conservation, or water storage capacity to be achieved* by 2040. ~~which, in addition to traditional sources of supply, includes~~ *This target may be achieved through the development of new or expanded surface or groundwater storage, water that contributes to that supply through* conservation efforts, *or the development of* stormwater capture, graywater, *and* recycled water, *or other water supplies*.

- 6) **Related legislation.** SB 659 (Ashby), Chapter 624, Statutes of 2023, requires DWR to develop a groundwater recharge action plan by January 1, 2026, and to develop a planning target for additional groundwater recharge capacity.

ACA 2 (Alanis) of the current legislative session dedicates 3% of the General Fund on an annual basis for water infrastructure and forest maintenance and health projects. ACA 2 died in this Committee.

ACA 13 (Mathis) of 2022 would have dedicated 2% of the General Fund on an annual basis for water infrastructure projects until an additional 5 million AF of water supply capacity was created. ACA 13 died in this Committee.

### **REGISTERED SUPPORT / OPPOSITION:**

#### **Support**

California Municipal Utilities Association (co-sponsor)  
 California State Association of Counties (co-sponsor)  
 California Council for Environmental & Economic Balance (co-sponsor)  
 Agricultural Council of California  
 Association of California Egg Farmers  
 Association of California Water Agencies  
 Bay Area Council  
 Bellflower Somerset Mutual Water Company  
 Brea Chamber of Commerce  
 Building Industry Association of Southern California, Inc.  
 Burbank Water and Power  
 Burbank, City of  
 CalDesal  
 California Alfalfa & Forage Association  
 California Alliance for Golf  
 California Apple Commission  
 California Association of Realtors  
 California Association of Wheat Growers  
 California Association of Winegrape Growers  
 California Bean Shippers Association  
 California Blueberry Association



California Business Roundtable  
California Chamber of Commerce  
California Citrus Mutual  
California Cotton Ginners & Growers Association  
California Farm Bureau Federation  
California Fresh Fruit Association  
California Grain & Feed Association  
California Hispanic Chamber of Commerce  
California Manufacturers and Technology Association  
California Pear Growers Association  
California Seed Association  
California Special Districts Association  
California State Floral Association  
California Walnuts  
California Warehouse Association  
California Water Association  
California Women for Agriculture  
Calleguas Municipal Water District  
Camrosa Water District  
Canyon Lake, City of  
Citrus Heights Chamber of Commerce  
City of Corona  
Coachella Valley Water District  
Corona, City of  
Cucamonga Valley Water District  
Desert Water Agency  
Dublin Chamber of Commerce  
East Bay Leadership Council  
Eastern Municipal Water District  
Economic Development Coalition  
El Dorado Irrigation District  
Elsinore Valley Municipal Water District  
Far West Equipment Dealers Association  
Folsom Chamber of Commerce  
Friant Water Authority  
Greater Coachella Valley Chamber of Commerce  
Greater Riverside Chamber of Commerce  
Grower-Shipper Association of Central California  
HDR Engineering, Inc.  
Hemet, City of  
Industrial Environmental Association  
Inland Empire Utilities Agency  
Irvine Ranch Water District  
Jurupa Community Services District  
Jurupa Valley, City of  
Kings River Conservation District  
Kings River Water Association  
Lake Elsinore, City of  
Las Virgenes Municipal Water District

League of California Cities  
Los Angeles County Business Federation  
Mammoth Lakes Tourism  
Mcmullin Area Groundwater Sustainability Agency  
Mesa Water District  
Mid-peninsula Water District  
Milk Producers Council  
Modesto Irrigation District  
Monday Morning Group of Western Riverside County  
Monte Vista Water District  
Municipal Water District of Orange County  
Murietta, City of  
Murrieta Wildomar Chamber of Commerce  
National Federation of Independent Business  
North Bay Leadership Council  
Northern California Water Association  
Olive Growers Council of California  
Olivenhain Municipal Water District  
Ontario, City of  
Pacific Coast Renderers Association  
Pacific Egg and Poultry Association  
Palmdale Water District  
Puente Basin Water Agency  
Rancho California Water District  
Rebuild SoCal Partnership  
Regional Water Authority  
Riverside, City of  
Riverside, County of  
Roseville, City of  
Rowland Water District  
Rubio Canon Land and Water Association  
Sacramento Metropolitan Chamber of Commerce  
San Bernardino Municipal Water Department  
San Bernardino Valley Municipal Water District  
San Gabriel Valley Economic Partnership  
San Gabriel Valley Municipal Water District  
San Gabriel Valley Regional Chamber of Commerce  
San Juan Water District  
Santa Ana Watershed Project Authority  
Santa Clara Valley Water District  
Santa Margarita Water District  
Solano County Water Agency  
Southern California Rental Housing Association  
Southern California Water Coalition  
Southwest California Legislative Council  
State Water Contractors  
Stockton East Water District  
Three Valleys Municipal Water District  
Trabuco Canyon Water District

Turlock Irrigation District  
United Ag  
Urban Counties of California  
Valley Ag Water Coalition  
Valley Center Municipal Water District  
Valley County Water District  
Walnut Valley Water District  
Water Replenishment District of Southern California  
West Basin Municipal Water District  
West Valley Water District  
Western Agricultural Processors Association  
Western Growers Association  
Western Municipal Water District  
Western Plant Health Association  
Zone 7 Water Agency

**Opposition**

California Sportfishing Protection Alliance  
California Water Research  
Center for Biological Diversity  
Coast Action Group  
Defenders of Wildlife  
Foothill Conservancy  
Friends of The River  
Golden State Salmon Association  
Mono Lake Committee  
Planning and Conservation League  
Restore the Delta  
Restoring the Stanislaus River  
Sacramento River Council  
San Francisco Baykeeper  
Save California Salmon  
Sierra Club California  
South Yuba River Citizens League  
Tuolumne River Trust  
Water Climate Trust  
Winnemem Wintu Tribe

**Oppose Unless Amended**

Community Water Center

**Analysis Prepared by:** Pablo Garza / W., P., & W. / (916) 319-2096