

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

SB 697 (Laird) – As Amended May 1, 2025

SENATE VOTE: 29-1

SUBJECT: Determination of water rights: stream system

SUMMARY: Removes the requirement for field investigations of each person who has given notice of intent to file a proof of claim (“claimant”) in a statutory adjudication and makes related procedural changes regarding statutory adjudications. Specifically, **this bill:**

- 1) Removes the requirement that the State Water Resources Control Board (State Water Board) conduct a detailed field investigation of each claimant involved in a statutory adjudication. Instead, requires the State Water Board, when conducting a statutory adjudication, to consider all pertinent information when investigating a stream system, including information on diversions collected by a measuring device and reported to the State Water Board by a water right holder.
- 2) Removes the requirement for the State Water Board to conduct a field investigation of the use of all known water users on a stream system that have not filed a notice of proof of claim in a statutory adjudication. Instead, requires the State Water Board to investigate in detail the water use of such users to the extent they are known to the State Water Board.
- 3) Authorizes the State Water Board to issue an information order to any claimant on a stream system to produce a report on the claimant’s water use or basis of right if the State Water Board determines in writing that information provided by the claimant is inadequate for the State Water Board’s investigation as part of a statutory adjudication. The burden of preparing the report shall bear a reasonable relationship to the need for the report.
- 4) Requires the State Water Board to do both of the following when issuing an information order requiring a claimant to produce a report on their water use or basis of right:
 - a) Provide a written explanation with regard to the need for the information; and
 - b) Identify the evidence that supports requiring the claimant to provide the information.
- 5) Provides that, if the preparation of individual reports would result in duplication of effort, the State Water Board may require a claimant subject to an information order to pay a reasonable share of the cost of preparing a report.
- 6) Requires the recipient of an information order from the State Water Board to respond within 75 days of receiving the order. The recipient may request an extension if good cause is shown.
- 7) Authorizes the State Water Board to inspect property or facilities where water is claimed to be used, diverted, or conveyed when conducting an investigation as part of a statutory adjudication. Provides that the State Water Board may obtain an inspection warrant from a judge for this purpose.

- 8) Makes technical and conforming changes.

EXISTING LAW:

- 1) Authorizes the State Water Board to determine all rights to the water of a stream system whether based upon appropriation, riparian right, or other claim (a “statutory adjudication”). Provides that the State Water Board may only initiate a statutory adjudication upon petition by one or more claimants to water of the stream system in question and must follow prescribed procedures in conducting the statutory adjudication (Water Code § 2500 *et seq.*).
- 2) Requires the State Water Board to conduct a detailed field investigation of every claimant involved in a statutory adjudication to determine the location, use, purpose, and amount of water being diverted by a claimant. The State Water Board shall provide 30 days’ notice in writing before conducting a field investigation (Water Code § 2551).
- 3) Requires a claimant to have all pertinent information on the extent and nature of the claimant’s water use and basis of water right available at a field investigation (Water Code § 2552).
- 4) Requires that the State Water Board provide a claimant, or the claimant’s representative, a blank form of proof of claim and a copy of the factual determinations upon conclusion of a field investigation (Water Code § 2553).
- 5) Requires the State Water Board to investigate projects of all water users known to the State Water Board who have not filed a notice of intent to file proof of claim during a statutory adjudication (Water Board § 2554).
- 6) Requires the State Water Board, after completing investigations, adopting a preliminary report, and hearing objections to the preliminary report, to adopt an order determining and establishing water rights on a stream system subject to a statutory adjudication (Water Code § 2700). The order of determination shall be submitted to the superior court of the county in which the stream system is situated and the court shall issue a final decree determining rights to the stream system after providing an opportunity to hear objections to the order (Water Code § 2763, § 2768).
- 7) Requires a person who diverts 10 acre-feet or more of water per year under a permit or license to install and maintain a device or method to measure the direct rate of diversion, rate of collection to storage, and rate of withdrawal or release from storage and to report this information to the State Water Board annually (Water Code § 1840).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, this bill “modernizes the State Water Board’s investigation of water right claims in stream systems. Currently, the law requires State Water Board staff to travel and perform costly and time intensive in-person field investigations along a stream system. [This bill] allows the [State Water] Board the option to use modern technology such as satellite imagery and digital data when conducting investigations, increasing efficiency without compromising data accuracy.”

- 2) **Background.** A “statutory adjudication” is a process whereby the State Water Board may determine, subject to judicial approval, the rights to water of a stream system. The State Water Board must receive a petition from a water right claimant to waters of a stream system in order for a statutory adjudication to be initiated. The State Water Board commences the proceeding by judging whether an adjudication would serve the public interest and necessity. In making its decision, the State Water Board considers among other factors: (1) the degree to which the waters of the stream system are fully used; (2) the existence of uncertainty as to the relative priority of rights to the use of waters of the stream system; (3) the unsuitability of less comprehensive measures, such as private litigation or agreements, to achieve certainty of rights to the use of waters of the stream system; and (4) the need for a system-wide decree or watermaster service, or both, to assure fair and efficient allocation of the waters of the stream system.

If the State Water Board finds that an adjudication would further the public interest and necessity, then the State Water Board investigates the water right claims and, after notice and opportunity for hearing, issues an order determining and establishing the rights to the water of the stream system. The State Water Board completes the adjudication process by filing the order with the superior court in the county where at least some of the stream system is located. Any dissatisfied party may contest the order in a superior court. After holding a hearing, the court then considers any objections (deemed “exceptions”) and adopts a decree “determining the rights of all persons involved in the proceeding” (Water Code § 2768).

The State Water Board has completed 28 statutory adjudications to date, mostly on small stream systems. Examples include: Bidwell Creek (Modoc County) finalized in 1960, Mojave River Basin (Riverside County) finalized in 1996, Soquel Creek (Santa Cruz County) finalized in 1977, and Willow Creek (Shasta County) finalized in 1986. A statutory adjudication on the Fresno River is pending.

- 3) **Technical amendment.** The author may wish to consider deleting redundant language in proposed Water Code § 2556 as follows:

2556. (a) In conducting an investigation pursuant to this chapter, if the board determines in writing that the information provided by the person pursuant to Sections 1840 and 1841 and any regulations adopted by the board pursuant to those sections is inadequate for the board’s investigation, the board may issue an information order to any person or entity that diverts or uses water or claims a water right to prepare and submit to the board any technical or monitoring program reports related to that diversion or use, or to submit any report of the basis for that claimed water right, as the board may specify. ~~*The burden of preparing the report shall bear a reasonable relationship to the need for the report.*~~

(b) The burden of preparing the report, including costs, shall bear a reasonable relationship to the need for the requested information and the benefits to be obtained from the board receiving that information. In making a request, the board shall do both of the following:

(1) Provide the person to whom the request is directed with a written explanation with regard to the need for the information.

(2) Identify the evidence that supports requiring that person to provide the information.

(c) If the preparation of individual reports would result in a duplication of effort, the board may order any person or entity subject to the order to pay a reasonable share of the cost of preparing reports.

- 4) **Double referral.** This bill has also been referred to the Assembly Judiciary Committee.
- 5) **Related legislation.** SB 389 (Allen), Chapter 486, Statutes of 2023, authorizes the State Water Board to issue an information order to ascertain whether any claimed water right is valid, including pre-1914 appropriative or riparian rights.

SB 19 (Dodd), Chapter 361, Statutes of 2019, requires the Department of Water Resources (DWR) and the State Water Board, upon an appropriation of funds by the Legislature, to develop a plan to deploy a network of stream gages.

AB 1755 (Dodd), Chapter 506, Statutes of 2016, enacts the Open and Transparent Water Data Act which requires DWR, in consultation with the State Water Board, the Department of Fish and Wildlife, and the California Water Quality Monitoring Council, to create and maintain a statewide integrated water data platform by August 1, 2020

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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