

Date of Hearing: April 16, 2024

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 2409 (Papan) – As Introduced February 12, 2024

**SUBJECT:** Office of Planning and Research: permitting accountability transparency dashboard

**SUMMARY:** Requires the Office of Planning and Research (OPR) to create and maintain a publicly accessible permitting accountability website (dashboard) by January 1, 2026. The dashboard shall display specified information regarding permits for public water, flood, energy, and environmental infrastructure projects that cost \$100 million or more. Specifically, **this bill:**

- 1) Defines “covered project” as a publicly owned project for the development of infrastructure for water supply, flood risk reduction, energy reliability, or environment protection or enhancement that has an estimated cost of \$100 million or more.
- 2) Defines “permit” as a permit, agreement, certification, approval, authorization, permission, notice to proceed, or directive, or issuance of this document.
- 3) Requires OPR to create and maintain a publicly accessible dashboard by January 1, 2026.
- 4) Requires, for covered projects, the dashboard to display specified information regarding permits issued by the following agencies:
  - a) Department of Fish and Wildlife (DFW);
  - b) State Water Resources Control Board (State Water Board);
  - c) Regional water quality control boards;
  - d) Department of Water Resources (DWR); and
  - e) State Energy Resources Conservation and Development Commission.
- 5) Requires the dashboard to display the following information regarding each permit issued by the agencies listed in #4, above, for each covered project:
  - a) Permit application submission date;
  - b) Date the permit was deemed complete;
  - c) Number of resubmittals required for the permit to be deemed complete;
  - d) Anticipated timeline for permit issuance; and
  - e) Date the permit application is approved or denied.
- 6) Requires OPR to update the dashboard at least quarterly.

- 7) Requires each agency listed in #3, above, to provide required information to OPR in an appropriate time and manner as determined by OPR.
- 8) Makes findings and declarations relative to the merits of this bill.

**EXISTING LAW:**

- 1) Permits the take of an endangered or threatened species listed pursuant to the California Endangered Species Act if it is incidental to an otherwise lawful activity [Fish and Game Code (FGC) § 2081].
- 2) Prohibits any entity from diverting or obstructing the natural flow of, or using any material from, the bed, channel, or bank of any river, stream, or lake unless DFW determines the activity will not substantially adversely affect fish and wildlife resources or the entity enters into an agreement with DFW to take reasonable measures to protect fish and wildlife resources [i.e., a Lake and Streambed Alteration Agreement (LSAA)] (FGC § 1602).
- 3) Prohibits any person from making an alteration, improvement, encroachment, or excavation within the right-of-way of the State Water Project without first obtaining permission (i.e., an encroachment permit) from DWR. Requires DWR to approve or deny an application for an encroachment permit within 60 days of receiving a complete application (Water Code § 12899.1).
- 4) Requires a person to obtain a permit from the State Water Board in order to divert and put surface water to beneficial use. Provides the State Water Board with authority to consider and investigate water right permit applications, prescribes the contents of a water right application, and prescribes the process for obtaining a water right (Water Code § 1250 *et seq.*).

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

**COMMENTS:**

- 1) **Purpose of this bill.** According to the author, “investing in public infrastructure is paramount to safeguarding our state's water supply, mitigating flood risks, and fortifying the resilience of our energy grid. The burden of funding and executing these crucial projects falls disproportionately to local agencies. Presently, the permitting process is opaque and inaccessible to the public, hindering meaningful public engagement and complicating project planning for local agencies. [This bill] aims to address these shortcomings by establishing a publicly accessible permitting dashboard, inspired by President Obama's FAST Act of 2015. This bill will enhance transparency in the state's infrastructure permitting procedures, empowering communities to participate actively in decision-making processes, while enabling local governments to better manage project timelines.”
- 2) **Background.** An infrastructure project can require a significant number of permits in order to proceed depending on its scope, location, and size. As an example, the Anderson Dam Seismic Retrofit Project being implemented by the Santa Clara Valley Water District requires at least five permits or approvals from, or consultations with, four different federal agencies or departments and at least nine permits or approvals from, or consultations with, different state agencies or departments. The majority of these permits do not have clear timelines for

how long it will take before they are approved or denied once a complete permit application has been submitted by the project proponent. This can lead to uncertainty for infrastructure project proponents.

- 3) **Related legislation.** AB 66 (Mathis) of 2023 would have required each department, board, and commission within the California Natural Resources Agency to take all reasonable steps to approve the necessary permits for specified projects within 180 days and post status updates for each permit application on its website. AB 66 was held on the Suspense file of the Assembly Appropriations Committee.

SB 158 (Committee on Budget and Fiscal Review), Chapter 73, Statutes of 2021, among other provisions, requires the Department of Toxic Substances Control (DTSC) to post the estimated dates of key milestones in the hazardous waste facilities permit application review process on its internet website within 90 days after receiving an application for a permit. Requires DTSC, in the event that it fails to make a timely hazardous waste facilities permit decision, to issue a public report that includes the reasons why the final hazardous waste facilities permit was not made on time and a proposed schedule for issuing the final hazardous waste facilities permit decision, among other information.

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

##### **Support**

California Municipal Utilities Association  
Santa Clara Valley Water District

##### **Opposition**

None on file

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