

## Drought and Flood Streamlining Trailer Bill Language

Section 1610 of the Fish and Game Code is amended to read:

1610. (a) Except as provided in subdivision (b), this chapter does not apply to any of the following:

(1) Immediate emergency work necessary to protect life or property.

(2) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in an area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(3) Emergency projects undertaken, carried out, or approved by a state or local governmental agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, within the existing right-of-way of the highway, that has been damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway, or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This paragraph does not exempt from this chapter any project undertaken, carried out, or approved by a state or local governmental agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide. The exception provided in this paragraph does not apply to a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code.

(b) The entity performing the emergency work described in subdivision (a) shall notify the department of the work, in writing, within 14 days of beginning the work. Any work described in the emergency notification that does not meet the criteria for the emergency work described in subdivision (a) is a violation of this chapter if the entity did not first notify the department in accordance with Section 1602 or 1611.

(c) This chapter does not apply to activities undertaken pursuant to Section 1242.2 of the Water Code.

Section 1242 of the Water Code is amended to read:

1242. The storing of water underground, diversion of water for underground storage, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of such storage, water for groundwater recharge, constitutes a diversion of water for beneficial use of water for which an appropriation may be made if the diverted water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made. 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 the protection of water quality made while the water is in underground storage. The forfeiture periods described 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 storage for later application to beneficial use. This section does not constitute a

change in, but is declaratory of, existing law.

Section 1242.2 is added to the Water Code, to read:

1242.2. The diversion of floodflows for groundwater recharge shall not require an appropriative water right if all of the following conditions are met:

(a) A local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice, that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.

(b) The diversions cease when the flood conditions described in the public notice provided pursuant to subdivision (a) have abated to the point there is no longer a risk of flooding and inundation of land, roads, or structures downstream of the point of diversion.

(c) Any water diverted is not diverted to, and will not be applied to, any of the following:

(1) Any barn, ponds, or lands, to which manure or waste from an animal facility that generates waste from the feeding and housing of animals for more than 45 days per year in a confined area that is not vegetated are applied.

(2) Any agricultural field where pesticide or fertilizer application has occurred in the prior 30 days or in the period prohibited by applicable law, whichever is longer.

(3) Any area that could cause damage to critical levees, infrastructure, wastewater and drinking water systems, drinking water wells or drinking water supplies, or exacerbate the threat of flood and other health and safety concerns.

(4) Any area that has not been in active irrigated agricultural cultivation within the past three years, including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purpose of groundwater recharge or managed wetlands.

(d) With respect to diversions from water tributaries to the Sacramento-San Joaquin Delta (Delta), water rightsholders are not making releases of stored water or reoperating facilities to provide flow for the purposes of meeting water quality control plan or endangered species requirements in the Delta at the time of the diversion.

(e) The diversion of floodflows for groundwater recharge uses the following as part of the diversion:

(1) Either existing diversion infrastructure or temporary pumps.

(2) Existing groundwater recharge locations, where available.

(3) No new permanent infrastructure or permanent construction.

(4) Simple screens installed on temporary pump intakes to minimize the impacts of diversion to salmon and other aquatic life.

(f) The person or entity making the diversion for groundwater recharge does not claim any water right based on that diversion and recharge.

(g) (1) The person or entity making the diversion for groundwater recharge files a preliminary report with the board and with any applicable groundwater sustainability agency, as defined in Section 10721, for the basin, no later than 14 days after initially

commencing diversion of floodflows for groundwater recharge, and a final report with the board and any applicable groundwater sustainability agency for the basin no later than 15 days after diversions cease.

(2) The preliminary and final reports shall do all of the following:

(A) Identify the person or entity making the diversion for groundwater recharge.

(B) Provide the Global Positioning System (GPS) coordinates for the point of diversion, a map identifying the approximate area inundated by the floodflows, and the corresponding assessor parcel numbers.

(C) Identify the time when diversions of floodflows to groundwater recharge commenced, and, for final reports, when diversions ceased.

(D) Provide an estimate, as of the report's date, of the amount of floodflows diverted for groundwater recharge.

Section 1242.3 is added to the Water Code, to read:

1242.3. The board shall post on its internet website all reports received pursuant Section 1242.2.

Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

(b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

(c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

(d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

(1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

(2) Any term or condition of a permit, license, certification, or registration issued under this division.

(3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

(4) A regulation adopted ~~under Section 1058.5~~ by the board.

(5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

(6) Any diversion or use of water for cannabis cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:

(A) A license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) of, or Chapter 7 (commencing with Section 26070) ~~of~~ of, Division 10 of the Business and Professions Code.

(B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(C) The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision (b) of Section 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.

(7) A condition or reporting requirement for the diversion of floodwaters for groundwater recharge under Section 1242.2.

(e) This article does not alter the regulatory authority of the board under other provisions of law.

Section 1846 of the Water Code is amended to read:

1846. (a) A person or entity may be liable for a violation of any of the following in an amount not to exceed five hundred dollars (\$500) for each day in which the violation occurs:

(1) A term or condition of a permit, license, certificate, or registration issued under this division.

(2) A regulation or order adopted by the board.

(3) A condition or reporting requirement for the diversion of floodwaters for groundwater recharge under Section 1242.2.

(b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(c) Civil liability may be imposed administratively by the board pursuant to Section 1055.

Section 13198 of the Water Code is amended to read:

13198. For purposes of this article, the following definitions apply:

(a) "Drought scenario" means either of the following:

(1) Circumstances for which the Governor has issued a proclamation of a state of emergency, pursuant to Section 8625 of the Government Code, based on drought conditions.

(2) (A) Circumstances for which the state board determines, consistent with subparagraph (B), that drought conditions necessitate urgent and immediate action to ensure availability of safe drinking water, to protect public health and safety, or, after consultation with the Department of Fish and Wildlife, to avoid serious and irreparable harm to fish or wildlife.

(B) Before determining a drought scenario exists pursuant to subparagraph (A), the state board shall do both of the following:

(i) Provide notice, including specific geographic areas in which a determination of a drought scenario is proposed, to the Joint Legislative Budget Committee, the secretaries of the implementing agencies, and the Director of Emergency Services.

(ii) To the extent feasible, conduct a public hearing for purposes of seeking public comment on the proposed declaration of a drought scenario, and any proposed actions.

(b) "Implementing agency" means any of the following:

(1) The Natural Resources Agency.

(2) The California Environmental Protection Agency.

(3) The Department of Food and Agriculture.

(4) The California Health and Human Services Agency.

(5) Boards, departments, and offices within the agencies specified in paragraphs (1) to (4), inclusive.

- (6) The Office of Emergency Services.
- (c) (1) "Interim or immediate relief" means any of the following:
  - (A) Hauled water.
  - (B) Temporary community water tanks.
  - (C) Bottled water.
  - (D) Water vending machines.
  - (E) Emergency water interties.
  - (F) New wells or rehabilitation of existing wells.
  - (G) Construction or installation of permanent connections to adjacent water systems, recycled water projects that provide immediate relief to potable water supplies, water use reduction and efficiency equipment, and other projects that support immediate drought response.
  - (H) Fish and wildlife rescue, protection, and relocation.
  - (I) Education, outreach, direct installation programs, rebate programs, and other activities to increase water conservation.
  - (J) Drought resilience planning.
  - (K) Groundwater recharge projects meeting the conditions of Section 1242.2.
- (1) Eligible costs for interim or immediate relief include technical assistance, site acquisitions, post-performance monitoring, and costs directly related to the provision of the project.

Section 13198.2 of the Water Code is amended to read:

13198.2. (a) Subject to an appropriation in the annual Budget Act or another statute for these purposes, an implementing agency may make grants and direct expenditures for interim or immediate relief in response to conditions arising from a drought scenario to do any of the following:

- (1) Address immediate impacts on human health and safety, including providing or improving availability of food, water, or shelter.
- (2) Address immediate impacts on fish and wildlife resources.
- (3) Provide water to persons or communities that lose or are threatened with the loss or contamination of water supplies.

(b) A contract entered into under this article by an implementing agency is exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. An implementing agency may award a contract under this section on a noncompetitive bid basis as necessary to implement the purposes of this article.

(c) An implementing agency shall obtain approval from the Department of Finance before entering into a contract under this section.

(d) Actions of implementing agencies under this article shall be deemed to be within paragraph (2), (3), or (4) of subdivision (b) of Section 21080 of the Public Resources Code.

(e) Posting and dissemination of information related to drought emergency activities under this section is exempt from Sections 7405 and 11546.7 of the Government Code as they pertain to the posting of materials on state agency internet websites as part of responding to the emergency, provided that any state agencies

failing to satisfy the requirements of Sections 7405 and 11546.7 of the Government Code shall make and post an accessible version on their internet websites as soon as practicable.

~~(e)~~

(f) Implementing agencies may adopt guidelines to implement this article. Those guidelines are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Section 13198.3 is added to the Water Code, as follows:

13198.3 Actions of any public agency related to conservation of Colorado River water supplies approved before December 31, 2026, where the Secretary of Natural Resources concurs in writing that the activity proposed by that public agency will advance Colorado River water conservation, shall be deemed to be within paragraph (2), (3), or (4) of subdivision (b) of Section 21080 of the Public Resources Code.

Section 13198.8 of the Water Code is repealed.

~~13198.8. This article shall remain in effect only until January 1, 2024, and as of that date is repealed.~~

