



ENVIRONMENTAL QUALITY POLICY COMMITTEE
Thursday, June 22, 2023
10:00 a.m.- 2:00 p.m

Sheraton Fairplex Hotel and Conference Center
601 West McKinley Avenue, Pomona

General Briefing and Special Listening Session
on Affordable Housing Production for All Policy Committee Members

10:00 a.m.

Upon adjournment, individual policy committee meetings will begin

AGENDA

I. Welcome and Introductions

*Speakers: Chair Jennifer Cavenaugh, Vice Mayor, Piedmont
Vice Chair Illece Buckley Weber, Council Member, Agoura Hills*

II. Group Introductions

Ice Breaker Question: What is your city known for?

III. Public Comment

IV. Legislative Agenda (Attachment A)

Action

Speaker: Damon Conklin, Lobbyist, League of California Cities

1. [AB 460 \(Bauer-Kahan\)](#): State Water Resources Control Board: water rights.
2. [AB 1337 \(Wicks\)](#): State Water Resources Control Board: water diversion.

V. Legislative and Budget Update

Informational

Speaker: Damon Conklin, Lobbyist, League of California Cities

Environmental quality position bills can be found [here](#). Cal Cities hot and priority bills can be found [here](#).

VI. Guest Speakers: Decarbonization and Air Quality Efforts/ Policy

Informational

*Speakers: Chris Chavez, Deputy Policy Director, Coalition for Clean Air
Kareem Gongora, Outreach Manager, Coalition for Clean Air*

VII. Adjourn

Next Virtual Meeting: Staff will notify committee members by August 4 if the policy committee will meet in September. If you have any questions, please contact Meg Desmond, Cal Cities Associate Manager, Legislative Administration.

Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

- 1) *Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
- 2) *A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

Special Listening Session on Affordable Housing Production

As part of Cal Cities on-going efforts to showcase the work cities are doing on housing and to further our efforts to proactively drive a housing agenda that responds to the statewide crisis and respects local decision-making, we want to hear from you.

For too long the focus on finding solutions to the housing crisis has been driven in Sacramento by the Legislature. It's time to take the conversation out of the Capitol and that's why Cal Cities is hosting a series of listening sessions with cities statewide, and stakeholder meetings — both regionally and at the state level — on broad solutions that protect local control and boost affordable housing production.

As part of this effort, Cal Cities is hosting its first listening session at the June policy committee meetings in Pomona, CA, to hear directly from city officials regarding what they need to help spur much needed affordable housing construction in their communities.

Below are several discussion questions for you to consider in preparation for the listening session:

- What are the barriers you have identified that are hampering affordable housing construction in your community?
- Does your city have the needed tools and resources to help spur housing construction? If not, what is lacking? If so, what are they?
- What kind of assistance is the California Department of Housing and Community Development providing to your city (technical assistance, grant programs, implementation regulations, guidelines, etc.)?
- Please provide specific examples of actions your city has taken to help spur housing construction and identify recently approved housing projects. You may also email examples to jrhine@calcities.org



**Environmental Quality Committee
Legislative Agenda
June 2023**

Staff: Damon Conklin, Legislative Affairs, Lobbyist
Waleed Hojeij, Legislative and Policy Analyst

1. AB 460 (Bauer-Kahan): State Water Resources Control Board: water rights and usage: interim relief: procedures

Bill Summary:

This measure would expand the authority of the State Water Resources Control Board (Board), allowing for property inspections, adjusting penalties, issuing interim relief orders, and changing the process of judicial review in water rights and usage matters.

Bill Description:

AB 460 proposes several amendments to existing laws related to water rights and usage, and the authority of the Board in California.

- The measure authorizes the Board to inspect the property or facilities of a person or entity during specified investigations or proceedings. If consent for inspection is denied, the board may obtain an inspection warrant or conduct an inspection without consent or a warrant in case of an emergency affecting public health and safety. Willful refusal of an authorized inspection would be considered a misdemeanor offense.
- The measure expands the methods of notice for issuing complaints by the executive director of the Board. Instead of only personal notice or certified mail, the bill allows notice in accordance with the manner of service of a summons under specified provisions of the Code of Civil Procedure.
- The measure requires the Board to adjust for inflation, on an annual basis starting in 2025, the amounts of civil and administrative liabilities or penalties imposed by the board in water right actions.
- The measure authorizes the Board to issue interim relief orders in water-related proceedings, ensuring compliance with water rights and quality laws, with violations resulting in civil penalties deposited in the Water Rights Fund, effective January 1, 2025.
- The bill increases the civil liability for violations of permits, licenses, certificates, orders, or regulations. The new amounts that the Board may impose administratively for violations of water rights, orders, or regulations to \$1,500 per day that a violation occurs. Increases the penalty amount that the superior court may impose for violations to \$10,000 per day and \$2,500 per acre-foot of water diverted while in violation.

Background:

This measure is aimed at addressing critical water management challenges in California. The state has been grappling with increasing water scarcity, pollution concerns, and inadequate enforcement measures to comply with water regulations. The Board is primarily responsible for overseeing water resources and enforcing capabilities to effectively meet targets.

There is a growing number of potential legal challenges and disputes arising from water-related matters, which puts additional strain on the Department of Justice (DOJ). The DOJ's Natural Resources Law Section, responsible for handling such cases, faces an overwhelming workload and limited resources, hindering its ability to provide robust legal support to the agency responsible for water resources.

This measure grants the Board new authority. It also allocates additional resources and funding to the DOJ's legal services fund, specifically targeting the Natural Resources Law Section. The objective is to strengthen the capacity of the DOJ to handle enforcement actions and potential legal challenges arising from water-related issues.

The measure intends to improve the enforcement of water regulations, protect California's water resources, and safeguard the rights and interests of the state and its residents. By addressing the challenges faced by the agency responsible for water resources and the DOJ, this measure aims to establish a legal framework that enables the state to tackle water-related issues and ensure the long-term viability of California's water supply.

Fiscal Impact:

This measure has the potential to incur significant costs, exceeding \$150,000, for the DOJ. The bill is expected to result in increased referrals from the Board to the DOJ's Natural Resources Law Section, leading to heightened enforcement actions and potential legal challenges. The DOJ acknowledges that these costs will impact the Legal Services Revolving Fund, but it anticipates recovering them through direct billings to the Board.

The Board does not anticipate major costs to implement this bill. However, the Assembly Appropriations Committee analysis could not identify the amount the Board would have to reimburse the DOJ for enforcement actions.

Existing Cal Cities Policy:

Cal Cities supports state water policy that allows undertaking aggressive water conservation and water use efficiency while preserving, and not diminishing, public and constitutional water rights. [Click here to review the full policy.](#)

Staff Comments:

Granting additional authority to the Board may impact local control over water resources. Local governments, water districts, and other entities may have established

water management practices that align with the specific needs and conditions of their communities. Increasing the Board's authority could potentially limit the decision-making autonomy of local entities, leading to concerns about loss of local control and representation.

Support and Opposition:

Support

Planning and Conservation League (co-sponsors)
California Trout (co-sponsors)
Trout Unlimited (co-sponsors)
California Coastkeeper Alliance
Clean Water Action
Clean Water Fund Defenders of Wildlife
Earthjustice
Environmental Working Group
Friends of The Eel River
Friends of The River
Heal the Bay
Institute for Conservation Advocacy
Research and Education
Karuk Tribe
Mono Lake Committee
Natural Resources Defense Council (NRDC)
North Bay Jobs With Justice
Northern California Council of Fly Fishers International
Pacific Coast Federation of Fishermen's Association
Restore the Delta
San Francisco Baykeeper
Trust for Public Land
Union of Concerned Scientists
Wholly H2o

Oppose

Agricultural Council of California
Almond Alliance of California
Antelope Valley East-kern Water Agency
Association of California Egg Farmers
Association of California Water Agencies (ACWA)
Byron-Bethany Irrigation District

California Alfalfa & Forage Association
California Apple Commission
California Association of Wheat Growers
California Association of Winegrape Growers
California Bean Shippers Association
California Blueberry Association
California Blueberry Commission
California Building Industry Association
California Business Properties Association
California Cattlemen's Association
California Chamber of Commerce
California Cotton Ginners and Growers Association
California Farm Bureau
California Fresh Fruit Association
California Grain & Feed Association
California Manufacturers & Technology Association
California Municipal Utilities Association
California Pear Grower Association
California Seed Association
Carmichael Water District
Central Delta Water Agency
City of Roseville
Coachella Valley Water District
Coastside County Water District
County of San Joaquin
County of Stanislaus
Cucamonga Valley Water District
Desert Water Agency
Dunnigan Water District
East Turlock Subbasin Groundwater Sustainability Agency
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Friant Water Authority
Grower-Shipper Association of Central California
Humboldt Bay Municipal Water District

International Bottled Water Association
Kern County Water Agency
Kings River Conservation District
Kings River Water Association
Lake Arrowhead Community Services
District
Manteca Chamber of Commerce
McKinleyville Community Services
District
Mesa Water District
Modesto Irrigation District
Mojave Water Agency
Montecito Water District
Napa County Flood Control and Water
Conservation
District Northern California Water
Association
Oakdale Irrigation District
Olive Growers Council of California
Orange County Water District
Pacific Egg & Poultry Association
Palmdale Water District
Pinedale County Water Agency
Placer County Water Agency
Regional Water Authority
Rosedale-Rio Bravo Water Storage
District
Rowland Water District
San Francisco Public Utilities Commission
San Gabriel Valley Municipal Water
District

San Geronio PASS Water Agency
San Joaquin River Exchange
Contractors Water Authority
San Juan Water District
San Luis Delta-Mendota Water Authority
Santa Clarita Valley Water Agency
Santa Margarita Water District
Solano County Water Agency
Solano Irrigation District
South San Joaquin Irrigation District
Southern California Water Coalition
Stockton East Water District
Tehachapi-Cummings County Water
District
Three Valleys Municipal Water District
Tranquility Irrigation District
Tri-county Water Authority
Tuolumne County Water Agency
Tuolumne Utilities District Turlock
Irrigation District
United Water Conservation District
Valley Ag Water Coalition
Valley Center Municipal Water District
Walnut Valley Water District
Western Agricultural Processors
Association
Western Growers Association
Western Municipal Water District
Western Plant Health Association
Wine Institute
Yuba Water Agency

Staff Recommendation:

Staff recommends the committee discuss and identify local water rights and interim relief priorities and make a recommendation to the Board.

Committee Recommendation:

Board Action:

2. AB 1337 (Wicks): State Water Resources Control Board: water diversion curtailment.

Bill Summary:

This measure would authorize the State Water Resources Control Board (Board) to issue a curtailment order for any diversion, regardless of basis of right, when water is not available under the diverter's priority of right.

Bill Description:

This measure relates to water diversion curtailment and the authority of the Board. Specifically, this measure does the following:

- Expands the instances when the diversion or use of water is considered a trespass. It states that the diversion or use of water other than as authorized by specific provisions of law is a trespass, subject to civil liability.
- Clarifies and expands the authority of the Board. The bill authorizes the Board to issue a curtailment order for any water diversion, regardless of the basis of right, when water is not available under the diverter's priority of right. The measure also requires the State Water board to adopt regulations to implement this provision.
- Adds an additional authorization for the Board to issue a cease-and-desist order when a water right holder fails to curtail diversions when water is unavailable under their priority of right.

Background:

AB 1337 responds to the appellate case, *California Water Curtailment Cases* (6th Dist. September 2022). The case addressed the Board's 2015 curtailment of diversion by senior water right (pre-1914) holders during drought conditions in the Sacramento-San Joaquin Delta.

In California, there are different types of water rights for surface water (e.g., riparian rights and appropriative rights). Riparian rights are given to landowners next to a river, allowing them to use a portion of the river's water. Appropriative rights follow the "first in time, first in right" principle, meaning those who started using the water first have priority over others. However, the state didn't have a clear process to establish water rights until the Water Commission Act was passed in 1914.

The California Water Curtailment Cases raised questions about whether the Board had the authority to limit the water diversions of pre-1914 water right holders. The court ruled that the Board's authority under Section 1052(a) of the Water Code did not extend to pre-1914 rights. However, the court suggested that the Legislature should consider granting the Board more authority over these older water rights to better manage water during droughts, which are becoming more common due to climate change.

AB 1337 seeks to address this issue by clarifying the Board's authority. It expands the situations in which the diversion or use of water is considered illegal. It also allows the Board to issue orders to restrict diversions for any water right, regardless of its basis, when there isn't enough water available according to the diverter's priority.

Fiscal Impact:

According to the Assembly Appropriations Committee, the Board estimates an ongoing annual cost of \$675,000 to adopt and implement regulations related to curtailment and water rights enforcement pursuant to this bill (Water Rights Fund and General Fund).

Existing Cal Cities Policy:

Cal Cities supports a state water policy that allows undertaking aggressive water conservation and water use efficiency while preserving, and not diminishing, public and constitutional water rights.

- Implementation of water conservation and water use efficiency programs must be consistent with existing state law in that the act of conservation cannot be allowed to undermine the water rights of the entities implementing the water conservation or water use efficiency program or interfere with existing water conservation or water use efficiency projects.
- New policies and programs should not undermine or alter the water rights of the entities implementing the policies or programs.

[Click here to review the full policy.](#)

Staff Comments:

Granting additional authority to the Board may impact local control over water resources. According to the California Municipal Utilities Association, this measure may be too aggressive as it hands the Board “unfettered authority to control water as it sees fit.” Local governments, water districts, and other entities may have established water management practices that align with the specific needs and conditions of their communities. Increasing the Board's authority could potentially limit the decision-making autonomy of local entities, leading to concerns about loss of local control and representation.

Support and Opposition:

Support

California Coastkeeper Alliance
 (co-sponsor)
 Planning and Conservation League
 (co-sponsor)
 Mono Lake Committee
 Ban SUP (single use plastic)
 California Environmental Voters
 California Trout
 Clean Water Action
 Coachella Valley Waterkeeper
 Defenders of Wildlife
 Friends of the Eel River
 Friends of the River
 Humboldt Baykeeper

Inland Empire Waterkeeper
 Los Angeles Waterkeeper
 Mono Lake Committee
 Monterey Waterkeeper
 Orange County Coastkeeper
 Russian Riverkeeper
 San Diego Coastkeeper
 Santa Barbara Channelkeeper
 South Yuba River Citizens League
 Trout Unlimited
 Union of Concerned Scientists
 Wholly H2O
 Yuba River Waterkeeper

Opposition

Agricultural Council of California
Antelope Valley East Kern Water Agency
Association of California Water
Agencies Byron-Bethany Irrigation District
California Association of Winegrape Growers
California Building Industry Association
California Business Properties Association
California Cattlemen's Association
California Chamber of Commerce
California Farm Bureau Federation
California Manufacturers & Technology
Association
California Municipal Utilities Association
California Special Districts Association
Carmichael Water District
Central Delta Water Agency
City of Corona
City of Roseville
Coachella Valley Water District
Coastside County Water District
County of San Joaquin
Cucamonga Valley Water District
Desert Water Agency
Dunnigan Water District
East Turlock Subbasin Groundwater
Sustainability Agency
Elk Grove Water District
Elsinore Valley Municipal Water District
Friant Water Authority
Humboldt Bay Municipal Water District
Imperial Irrigation District
Irvine Ranch Water District
Kern County Water Agency
Lake Arrowhead Community Services District
Manteca Chamber of Commerce
McKinleyville Community Services District
Mesa Water District

Metropolitan Water District of Orange County
Modesto Irrigation District
Mojave Water Agency
Montecito Water District
Napa County Flood Control and Water
Conservation District
Northern California Water Association
Oakdale Irrigation District
Placer County Water Agency
Regional Water Authority
Rosedale-Rio Bravo Water Storage District
Rowland Water District
San Francisco Public Utilities Commission
San Gabriel Valley Municipal Water District
San Geronio Pass Water Agency
San Juan Water District
San Luis Delta-Mendota Water Authority
Santa Clarita Valley Water Agency
Santa Margarita Water District
Solano County Water Agency
Solano Irrigation District
South San Joaquin Irrigation District
Southern California Water Coalition
Stockton East Water District
Tehachapi-cummings County Water District
Three Valleys Municipal Water District
Tranquility Irrigation District
Tri-county Water Authority
Tuolumne County Water Agency
Tuolumne Utilities District
Turlock Irrigation District
United Water Conservation District
Valley Center Municipal Water District
Walnut Valley Water District
Western Growers Association
Western Municipal Water District
Wine Institute
Yuba Water Agency

Staff Recommendation:

Staff recommends the committee discuss and identify local water rights' priorities and make a recommendation to the Board.

Committee Recommendation:

Board Action: