

Assembly Bill No. 2121

CHAPTER 943

An act to add Sections 1259.2 and 1259.4 to the Water Code, relating to water.

[Approved by Governor September 29, 2004. Filed with Secretary of State September 30, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2121, Committee on Budget. Water resources.

Under existing law, the State Water Resources Control Board is responsible for the administration of water rights.

This bill would require the board to prepare annually a written summary, in chart form, of pending applications to appropriate water in the Counties of Marin, Napa, Sonoma, Mendocino, and Humboldt, and would require certain information to be included in that summary. The bill would authorize the board to post that information on its Web site. The bill would require the board, on or before January 1, 2007, to adopt principles and guidelines for maintaining instream flows in certain streams in accordance with state policy for water quality control, for the purposes of water right administration, and would authorize the board to adopt principles and guidelines for maintaining instream flows in other streams for those purposes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) In 1997, the State Water Resources Control Board prepared a staff report that broadly analyzed water right permit matters relating to the Russian River basin.

(b) From 1997 to 2002, the board, the Department of Fish and Game, the National Marine Fisheries Service, and Trout Unlimited debated the necessary flow requirements, and other biological and fish-related conditions that are appropriate for inclusion in water right permits.

(c) In June 2002, state and federal fish agencies released their updated "Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams." These joint guidelines represent the first time state and federal fish agencies presented to the board specific fish measures in guideline format that are the minimum necessary conditions to preserve a level of

stream flow that ensures that anadromous salmonids will not be adversely impacted by diversions.

(d) The board has not formally adopted the management objectives set forth in those joint guidelines, even though the adoption would significantly advance the effort to ensure that appropriate fish measures are included in new water right permits and that cumulative impacts are considered.

(e) The adoption of these joint guidelines is necessary for the protection of fishery resources even if these guidelines are required to be amended from time to time.

(f) Pending before the board are more than 276 applications to appropriate water from streams in the Counties of Marin, Napa, Sonoma, Mendocino, and Humboldt.

(g) Many of these applications have been pending for a decade. Most of these applications have been pending for at least five years. These delays are inappropriate, and they produce regulatory uncertainty for the water user community and the conservation and fishing communities. All interested stakeholders would benefit if information was available with regard to these applications to appropriate water, including, but not limited to, the number of pending applications, the proposed source of water for each application, and the status of each application.

SEC. 2. Section 1259.2 is added to the Water Code, to read:

1259.2. (a) The board shall annually prepare a written summary, in chart form, of pending applications to appropriate water in the Counties of Marin, Napa, Sonoma, Mendocino, and Humboldt. The summary shall include a description of the status of each pending application, the actions taken in the preceding year, proposed actions for the upcoming year, and the proposed date for final action with regard to that application.

(b) For the purposes of carrying out subdivision (a), the board may post the information described in subdivision (a) on its Web site.

SEC. 3. Section 1259.4 is added to the Water Code, to read:

1259.4. (a) (1) On or before January 1, 2007, the board shall adopt principles and guidelines for maintaining instream flows in coastal streams from the Mattole River to San Francisco and in coastal streams entering northern San Pablo Bay, in accordance with state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7, for the purposes of water right administration.

(2) The board may adopt principles and guidelines for maintaining instream flows not described in paragraph (1), in accordance with state policy for water quality control adopted pursuant to Article 3



(commencing with Section 13140) of Chapter 3 of Division 7, for the purposes of water right administration.

(b) Prior to the adoption of principles and guidelines pursuant to subdivision (a), the board may consider the 2002 “Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams” for the purposes of water right administration.

