

**ASSEMBLY BILL**

**No. 2759**

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**Introduced by Committee on Water, Parks and Wildlife**

March 24, 2014

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An act to repeal Section 1410a of the Civil Code, and to amend Section 1231 of, to repeal Section 1232 of, and to repeal and add Section 1230 of, the Water Code, relating to water rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as introduced, Committee on Water, Parks and Wildlife. Interstate water rights.

(1) Existing law provides that, with regard to a stream flowing across the state boundary, a right of appropriation having the point of diversion and place of use in another state and recognized by the laws of that state has the same force and effect as if the point of diversion and place of use were in this state.

(2) Existing law provides that the provisions described in (1) apply to any appropriation or change in point of diversion, place of use, or purpose of use under a right to the use of waters from the Truckee River if the appropriation or change is made pursuant to a specified operating agreement entered into by the United States, the State of Nevada, and this state.

Existing law provides that the provisions described in (1) do not apply to interstate lakes or streams flowing in or out of those lakes.

This bill would recast these provisions.

(3) Existing law provides that the provisions described in (1) do not apply to the Walker River and its tributaries or claimed rights of appropriation from the Walker River in the State of Nevada.

This bill would provide that the provisions described in (1) apply to a right to the use of waters from the Walker River and its tributaries if the appropriation or change is not inconsistent with a prescribed court decree.

(4) Existing law provides that an appropriation of water in this state from a stream flowing into this state for beneficial use in another state may be made only when, under the laws of the other state, water may be diverted in that state for beneficial use in this state. Existing law provides that the entire flow of water in any natural stream which carries water from this state into any other state is subject to use in this state under the laws of this state and that the rights to the use of this water held under the laws of this state are prior and superior to any rights to the waters of these streams held under the laws of any other state.

This bill would repeal these provisions. This bill would provide, if the waters of an interstate body of water have been allocated between California and another state or Indian tribe by a compact, United States Supreme Court decree, or other appropriate method of allocating interstate waters, the State Water Resources Control Board is required to exercise its authority in a manner consistent with the rights and responsibilities of the State of California under that interstate allocation.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. Section 1410a of the Civil Code is repealed.
- 2 ~~1410a. The entire flow of water in any natural stream which~~
- 3 ~~carries water from the State of California into any other state is~~
- 4 ~~subject to use in the State of California, under the laws of the State~~
- 5 ~~of California, and the right may be, so far as not already acquired~~
- 6 ~~by use in the State of California, acquired and held under the laws~~
- 7 ~~of the State of California. The rights to the use of such water held~~
- 8 ~~under the laws of the State of California, shall be prior and superior~~
- 9 ~~to any rights to the waters of such streams held under the laws of~~
- 10 ~~any other state.~~
- 11 SEC. 2. Section 1230 of the Water Code is repealed.
- 12 ~~1230. Upon any stream flowing across the State boundary, an~~
- 13 ~~appropriation of water in this State for beneficial use in another~~
- 14 ~~State may be made only when, under the laws of the latter, water~~
- 15 ~~may be lawfully diverted therein for beneficial use in this State.~~

1 SEC. 3. Section 1230 is added to the Water Code, to read:

2 1230. If the waters of an interstate body of water have been  
3 allocated between California and another state or Indian tribe by  
4 a compact, United States Supreme Court decree, or other  
5 appropriate method of allocating interstate waters, the board shall  
6 exercise its authority under this division in a manner consistent  
7 with the rights and responsibilities of the State of California under  
8 that interstate allocation and Section 1231 does not apply to the  
9 extent it is inconsistent with that interstate allocation.

10 SEC. 4. Section 1231 of the Water Code is amended to read:

11 ~~1231. Upon any stream flowing across the state boundary a~~  
12 *(a) A right of appropriation having from a stream that flows across*  
13 *the state boundary that has the point of diversion and the place of*  
14 *use in another state and is recognized by the laws of that state shall*  
15 *have the same force and effect as if the point of diversion and the*  
16 *place of use were in this State if the laws of that state give like*  
17 *force and effect to similar rights acquired in this State; provided,*  
18 ~~that this section shall not apply to the Walker River and its~~  
19 ~~tributaries or claimed rights of appropriation therefrom in the State~~  
20 ~~of Nevada, whether heretofore or hereafter initiated.~~

21 *(b) Subdivision (a) does not apply to interstate lakes, or streams*  
22 *flowing in or out of those lakes. Subdivision (a) applies where an*  
23 *appropriation or change in point of diversion, place of use, or*  
24 *purpose of use is proposed or made under either of the following:*

25 *(1) A right to the use of waters from the Truckee River if the*  
26 *appropriation or change is made pursuant to the operating*  
27 *agreement described in Section 205(a) of Public Law 101-618.*

28 *(2) A right to the use of waters from the Walker River and its*  
29 *tributaries if the appropriation or change is not inconsistent with*  
30 *the decree entered in United States v. Walker River Irrigation*  
31 *District, et. al. United States District Court for the District of*  
32 *Nevada Equity No. C-125, filed April 15, 1936, including any*  
33 *amendments to that decree entered before or after January 1, 2015.*

34 SEC. 5. Section 1232 of the Water Code is repealed.

35 ~~1232. (a) Except as provided in subdivision (b), nothing in~~  
36 ~~this article applies to interstate lakes, or streams flowing in or out~~  
37 ~~of those lakes.~~

38 ~~(b) This article applies to any appropriation or change in point~~  
39 ~~of diversion, place of use, or purpose of use under a right to the~~  
40 ~~use of waters from the Truckee River if the appropriation or change~~

- 1 is made pursuant to the operating agreement described in Section
- 2 205 (a) of Public Law 101-618.

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