

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 142**

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**Introduced by Assembly Member Bigelow**  
(Principal coauthor: Senator Berryhill)

January 12, 2015

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An act to amend Section 5093.56 of, and to add Sections 5093.548 and 5093.549 to, the Public Resources Code, relating to wild and scenic rivers.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Bigelow. Wild and scenic rivers: Mokelumne River.

(1) Existing law, the California Wild and Scenic Rivers Act, provides for a system of classification of those rivers or segments of rivers in the state that are designated as wild, scenic, or recreational rivers, for purposes of preserving the highest and most beneficial use of those rivers. The act requires the Secretary of the Natural Resources Agency to study and submit to the Governor and the Legislature a report that analyzes the suitability or unsuitability for addition to the system of rivers or segments of rivers that are designated by the Legislature as potential additions to the system, and requires that each report contain specified information and recommendations with respect to the proposed designation.

This bill would require the secretary, in a report analyzing the suitability or unsuitability of a proposed designation of the Mokelumne

River, its tributaries, or portions thereof as additions to the system, to consider the potential effects of the proposed designation on future water requirements, as specified, and the effects of climate change on river values and current and projected water supplies, and to consider other factors. The bill would include any portion of the Mokelumne River designated for potential addition within certain protections afforded to wild and scenic rivers until the completion of the study period and the implementation of any recommendation to add the portion of the Mokelumne River to the system, or December 31, 2021, whichever occurs first.

The bill would also designate a specified portion of the Mokelumne River, or any segment of that portion, for potential addition to the system. The bill would require the secretary to submit a report pursuant to the above-described requirements to the Legislature and Governor no later than December 31, 2017, and would require the report to include a clear recommendation on the suitability or unsuitability for addition to the system of the designated portion of the Mokelumne River or any segment of that portion. *The bill would require the secretary to enter into a cost-sharing agreement with the Upper Mokelumne River Watershed Authority that would require the state and the authority to each pay a specified portion of the cost of the report. By imposing new duties on a local government entity, the bill would impose a state-mandated local program.*

(2) The bill would declare that due to the unique geographical features of the Mokelumne River and its tributaries, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

(3)*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. It is the intent of the Legislature that the entities  
 2 responsible for the Mokelumne Watershed Interregional

1 Sustainability Evaluation Program may seek state funding for  
2 which the feasibility studies and assessments described in  
3 paragraph (3) of subdivision (a) of Section 5093.548 of the Public  
4 Resources Code are eligible.

5 SEC. 2. Section 5093.548 is added to the Public Resources  
6 Code, to read:

7 5093.548. (a) Notwithstanding Section 5093.547, prior to the  
8 designation of the Mokelumne River, its tributaries, or portions  
9 thereof as additions to the system, the secretary shall study and  
10 submit to the Governor and the Legislature a report that analyzes  
11 the suitability or unsuitability of the proposed designation. The  
12 suitability analysis contained in the report shall consider all of the  
13 following:

14 (1) The potential effects of the proposed designation on the  
15 ability of public agencies and utilities within the Mokelumne River  
16 watershed to meet current and projected future water requirements  
17 through the development of new and more reliable water supplies  
18 from the Mokelumne River and its tributaries. When considering  
19 projected future water requirements, the secretary shall only  
20 consider feasible projects to meet foreseeable demands.

21 (2) Any effects of climate change on river values described in  
22 Section 5093.50 and current and projected water supplies.

23 (3) The following feasibility studies and assessments included  
24 within the implementation plan of the Mokelumne Watershed  
25 Interregional Sustainability Evaluation, Final Report dated June  
26 12, 2015: 7a, 7b, 7d, and 7f. The inclusion of these studies and  
27 assessments in this subdivision shall not be construed as an  
28 exemption from wild and scenic designation.

29 (4) The instances when the secretary has determined pursuant  
30 to Section 5093.55 that a water diversion facility may be  
31 constructed on a river or segment of a river that is part of the  
32 system.

33 (5) The instances when the State Water Resources Control Board  
34 has approved an application to appropriate water from a river or  
35 a segment of a river that is part of the system and what restrictions,  
36 if any, were placed on the appropriation of water as a result of the  
37 river or segment of a river's inclusion in the system.

38 (b) The report shall also include the information required in  
39 subdivision (b) of Section 5093.547 and the secretary's

1 recommendations and proposals with respect to the proposed  
2 designation.

3 (c) The report required for the portion of the Mokelumne River  
4 designated for potential addition to the system pursuant to Section  
5 5093.549 shall be submitted to the Legislature and Governor no  
6 later than December 31, 2017, and shall include a clear  
7 recommendation on the suitability or unsuitability for addition  
8 to the system of the designated portion of the Mokelumne River  
9 or any segment of that portion.

10 (d) ~~The~~ A study undertaken by the secretary pursuant to  
11 subdivision (a) shall provide for public input from a broad range  
12 of stakeholders.

13 (e) A report required to be submitted pursuant to subdivision  
14 (a) shall be submitted in compliance with Section 9795 of the  
15 Government Code.

16 (f) Until the completion of the study period and the  
17 implementation of any recommendation to add segments to the  
18 system, or December 31, 2021, whichever occurs first, no dam,  
19 reservoir, diversion, or other water impoundment facility may be  
20 constructed on any segment designated for study by the secretary  
21 as a potential addition to the system unless the secretary determines  
22 that the facility is needed to supply domestic water to the residents  
23 of the county or counties through which the river and segment  
24 flows and the secretary determines that the facility will not  
25 adversely affect the free-flowing condition and natural character  
26 of the river and segment. This subdivision shall not apply to, and  
27 shall not in any way affect, Amador Water Agency's water rights  
28 application 5647X03 pending before the State Water Resources  
29 Control Board.

30 (g) (1) *The secretary shall develop a cost estimate of the study*  
31 *and report required by subdivision (c) and enter into a cost-sharing*  
32 *agreement with the Upper Mokelumne River Watershed Authority.*  
33 *The cost-sharing agreement shall require that the state pay not*  
34 *more than 50 percent of the cost of the study and report required*  
35 *by subdivision (c), with the remaining cost to be paid by the*  
36 *authority. The payment by the authority may consist of*  
37 *appropriated funds or a contribution of services.*

38 (2) *Nothing in this section shall preclude any private donations*  
39 *or contributions from interested parties to be used for the purposes*  
40 *of this subdivision.*

1 SEC. 3. Section 5093.549 is added to the Public Resources  
2 Code, to read:

3 5093.549. The portion of the Mokelumne River, or any segment  
4 of that portion, located from one-half mile downstream of the Salt  
5 Springs 97-066 Dam to the upper extent of the Pardee Reservoir  
6 at the elevation of not less than 580 feet above mean sea level is  
7 hereby designated for potential addition to the system.

8 SEC. 4. Section 5093.56 of the Public Resources Code is  
9 amended to read:

10 5093.56. No department or agency of the state may assist or  
11 cooperate, whether by loan, grant, license, or otherwise, with any  
12 department or agency of the federal, state, or local government,  
13 in the planning or construction of a dam, reservoir, diversion, or  
14 other water impoundment facility that could have an adverse effect  
15 on the free-flowing condition and natural character of either of the  
16 following:

17 (a) The rivers and segments thereof designated in Section  
18 5093.54 as included in the system.

19 (b) The portion of the Mokelumne River designated in Section  
20 5093.549 for study by the secretary as a potential addition to the  
21 system until after the study period and implementation of any  
22 recommendations have been completed, or December 31, 2021,  
23 whichever occurs first. This subdivision shall not apply to, and  
24 shall not in any way affect, Amador Water Agency's water rights  
25 application 5647X03 pending before the State Water Resources  
26 Control Board.

27 SEC. 5. Due to the unique geographical features of the  
28 Mokelumne River and its tributaries, the Legislature hereby finds  
29 and declares that a special law is necessary and a general law  
30 cannot be made applicable within the meaning of Section 16 of  
31 Article IV of the California Constitution.

32 *SEC. 6. No reimbursement is required by this act pursuant to*  
33 *Section 6 of Article XIII B of the California Constitution because*  
34 *the only costs that may be incurred by a local agency or school*  
35 *district are the result of a program for which legislative authority*  
36 *was requested by that local agency or school district, within the*  
37 *meaning of Section 17556 of the Government Code and Section 6*  
38 *of Article XIII B of the California Constitution.*

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