

AMENDED IN ASSEMBLY APRIL 14, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1986

Introduced by Assembly Member Wilk

February 16, 2016

An act to add ~~Chapter 5.5 (commencing with Section 1355) to Part 2 of Division 2 of Section 1305~~ to the Water Code, relating to water resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1986, as amended, Wilk. Water resources: permit to appropriate: application procedure.

Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Existing law requires an application for a permit to appropriate water to include, among other things, sufficient information to demonstrate a reasonable likelihood that unappropriated water is available for the proposed appropriation. Existing law requires the board to issue and deliver a notice of an application as soon as practicable after the receipt of an application for a permit to appropriate water that conforms to the law. Existing law allows interested persons to file a written protest with regard to an application to appropriate water and requires the protestant to set forth the objections to the application. Existing law declares that no hearing is necessary to issue a permit in connection with an unprotested application, or if the undisputed facts support the issuance of the permit and there is no disputed issue of material fact, unless the board elects to hold a hearing.

This bill, if the board has not rendered a final determination on an application for a permit to appropriate water within 20 years from the date the application was filed, would require the board to issue another notice of application and mail the notice of application, as prescribed. This bill would require the applicant to publish and post the notice of application, as prescribed. This bill would authorize any person interested to file with the board a written protest against the approval of the application and require the board to proceed on the application, as specified: a notice and provide an opportunity for protests before rendering a final determination, with specified exceptions. This bill would provide that it is not a limitation on the authority of the board to issue a notice or direct the applicant to issue a notice if, because of changes in the project or other circumstances, the issuance of a notice is necessary to provide a fair opportunity for interested persons to file protests or is in the public interest.

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 1305 is added to the Water Code, to read:
- 2 1305. (a) If the board has not rendered a final determination
- 3 on an application for a permit to appropriate water within 20
- 4 years from the date the application was filed, the board shall issue
- 5 a new notice and provide an opportunity for protests under Chapter
- 6 4 (commencing with Section 1330) before rendering a final
- 7 determination.
- 8 (b) A notice and opportunity for protests pursuant to subdivision
- 9 (a) is not required if any of the following apply:
- 10 (1) The application is canceled or denied.
- 11 (2) A notice and opportunity for protests has been provided
- 12 within five years prior to the board rendering a final approval.
- 13 (3) The board holds a hearing or conducts proceedings under
- 14 Article 1.5 (commencing with Section 1345), after public notice
- 15 of the hearing or proceeding, and allows any person requesting
- 16 notice of the hearing or proceedings to participate as a party in
- 17 the hearing or proceeding, including the presentation of evidence,
- 18 without having to have filed protests. The board shall provide not
- 19 less than 45 days' written notice, in the same manner as would be

1 *provided to an unresolved protestant, to any person requesting*
2 *the notice.*

3 *(c) This section is not a limitation on the authority of the board*
4 *to issue a notice or direct the applicant to issue a notice if, because*
5 *of changes in the project or other circumstances, the issuance of*
6 *a notice is necessary to provide a fair opportunity for interested*
7 *persons to file protests or is in the public interest.*

8 SECTION 1. Chapter 5.5 (commencing with Section 1355) is
9 added to Part 2 of Division 2 of the Water Code, to read:

10

11 ~~CHAPTER 5.5. PROCEDURES FOR DELAYED APPLICATIONS~~

12

13 ~~1355. (a) If the board has not rendered a final determination~~
14 ~~on an application for a permit to appropriate water within 20 years~~
15 ~~from the date the application was filed, the board shall do the~~
16 ~~following:~~

17 ~~(1) Issue another notice of application in accordance with Article~~
18 ~~1 (commencing with Section 1300) of Chapter 3.~~

19 ~~(2) Mail the notice of application in accordance with Section~~
20 ~~1321.~~

21 ~~(b) The applicant shall do both of the following:~~

22 ~~(1) Publish the notice of application in accordance with Article~~
23 ~~2 (commencing with Section 1310) of Chapter 3.~~

24 ~~(2) Post the notice of application in accordance with Article 3~~
25 ~~(commencing with Section 1320) of Chapter 3.~~

26 ~~(c) Any person interested may file with the board a written~~
27 ~~protest against the approval of the application in accordance with~~
28 ~~Chapter 4 (commencing with Section 1330) and the board shall~~
29 ~~conduct proceedings on the application in accordance with Chapter~~
30 ~~5 (commencing with Section 1340).~~