

ASSEMBLY BILL

No. 2357

Introduced by Assembly Member Dahle

February 18, 2016

An act to amend Section 1840 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2357, as introduced, Dahle. Water rights: measurement of diversion.

Existing law requires a person who diverts 10 acre-feet of water per year or more under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage, as specified, and with certain exceptions.

This bill would make a nonsubstantive change to this provision.

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

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

1 SECTION 1. Section 1840 of the Water Code is amended to
2 read:
3 1840. (a) (1) Except as provided in subdivision (b), a person
4 who, on or after January 1, 2016, diverts 10 acre-feet of water per
5 year or more under a permit or license shall install and maintain
6 a device or employ a method capable of measuring the rate of
7 direct diversion, rate of collection to storage, and rate of withdrawal
8 or release from storage. The measurements shall be made using
9 the best available technologies and best professional practices, as

1 defined in Section 5100, using a device or methods satisfactory to
 2 the board, as follows:

3 (A) A device shall be capable of continuous monitoring of the
 4 rate and quantity of water diverted and shall be properly
 5 maintained. The permittee or licensee shall provide the board with
 6 evidence that the device has been installed with the first report
 7 submitted after installation of the device. The permittee or licensee
 8 shall provide the board with evidence demonstrating that the device
 9 is functioning properly as part of the reports submitted at five-year
 10 intervals after the report documenting installation of the device,
 11 or upon request of the board.

12 (B) In developing regulations pursuant to Section 1841, the
 13 board shall consider devices and methods that provide accurate
 14 measurement of the total amount diverted and the rate of diversion.
 15 The board shall consider devices and methods that provide accurate
 16 measurements within an acceptable range of error, including the
 17 following:

- 18 (i) Electricity records dedicated to a pump and recent pump test.
- 19 (ii) Staff gage calibrated with an acceptable streamflow rating
 20 curve.
- 21 (iii) Staff gage calibrated for a flume or weir.
- 22 (iv) Staff gage calibrated with an acceptable storage capacity
 23 curve.

24 (v) Pressure transducer and acceptable storage capacity curve.
 25 (2) The permittee or licensee shall maintain a record of all
 26 diversion monitoring that includes the date, time, and diversion
 27 rate at time intervals of one hour or less, and the total amount of
 28 water diverted. These records shall be included with reports
 29 submitted under the permit or license, as required under subdivision
 30 (c), or upon request of the board.

31 (b) (1) The board may modify the requirements of subdivision
 32 (a) upon finding either of the following:

33 (A) That strict compliance is infeasible, is unreasonably
 34 expensive, would unreasonably affect public trust uses, or would
 35 result in the waste or unreasonable use of water.

36 (B) That the need for monitoring and reporting is adequately
 37 addressed by other conditions of the permit or license.

38 (2) The board may increase the 10-acre-foot reporting threshold
 39 of subdivision (a) in a watershed or subwatershed, after considering
 40 the diversion reporting threshold in relation to quantity of water

1 within the watershed or subwatershed. The board may increase
2 the 10-acre-foot reporting threshold to 25 acre-feet or ~~above~~ *more*
3 if it finds that the benefits of the additional information within the
4 watershed or subwatershed are substantially outweighed by the
5 cost of installing measuring devices or employing methods for
6 measurement for diversions at the 10-acre-foot threshold.

7 (c) At least annually, a person who diverts water under a
8 registration, permit, or license shall report to the board the
9 following information:

- 10 (1) The quantity of water diverted by month.
11 (2) The maximum rate of diversion by months in the preceding
12 calendar year.
13 (3) The information required by subdivision (a), if applicable.
14 (d) Compliance with the applicable requirements of this section
15 is a condition of every registration, permit, or license.