

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 615

Introduced by Senator Berryhill

February 27, 2015

An act to add Section 13269.1 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 615, as amended, Berryhill. ~~Groundwater basin adjudication.~~
Waste discharge requirements: waivers: managed wetlands.

The Porter-Cologne Water Quality Control Act, with certain exceptions, requires a waste discharger to file certain information with the appropriate California regional water quality control board. The act prohibits a waste discharger from taking certain actions relating to the discharge of waste before filing the information with the regional board and also prohibits a waste discharger from taking those actions after filing the report but before the occurrence of certain events. The act requires each regional board to prescribe waste discharge requirements, as specified, that implement relevant water quality control plans. Under the act, the State Water Resources Control Board or a regional board may waive requirements regarding a specific discharge or type of discharge if the state board or regional board determines that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The act requires that the waiver shall not exceed 5 years in duration, but permits the state board or a regional board to renew the waiver. The act requires the waiver to be conditional on specified monitoring requirements but authorizes the state board or a regional board to waive the monitoring requirements for discharges it determines do not pose a significant threat to water quality.

This bill would require that managed wetlands be presumed to not pose a significant threat to water quality and would require, with respect to managed wetlands, the state board and regional boards to waive the above-described reporting requirements, regional board prescribed waste discharge requirements, and monitoring requirements of the waiver program, except that the state board or a regional board shall require water quality monitoring of a managed wetland not more than once during the duration of each waiver period unless results of downstream monitoring demonstrate a violation of water quality discharge standards. The bill would limit this monitoring to contaminants that are actually applied by wetland managers to the wetland and contaminants that are known to be naturally present in the wetland environment.

~~Existing law specifies the jurisdiction of the courts. Under existing law, courts may adjudicate rights to produce groundwater and exercise other powers relating to the supervision of a groundwater basin.~~

~~This bill would state the intent of the Legislature to enact legislation to streamline the process for the adjudication of groundwater rights.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Before European and American settlement, approximately*
- 4 *four million acres in California flooded on a seasonal basis,*
- 5 *forming wetlands.*
- 6 (b) *These wetlands supported migratory birds in the tens of*
- 7 *millions, as well as other wetlands-dependent wildlife and fish,*
- 8 *including several endangered species.*
- 9 (c) *Following reclamation of the wetlands in the past two*
- 10 *centuries, less than 10 percent of the historical seasonal wetlands*
- 11 *are still in existence.*
- 12 (d) *These wetlands consist largely of private lands, federal*
- 13 *refuges, and state wildlife areas.*
- 14 (e) *Approximately five million migratory waterfowl, traveling*
- 15 *on the Pacific Flyway, now winter in California on the remaining*
- 16 *wetlands.*

1 (f) A variety of other wildlife species, including shorebirds,
2 resident waterfowl, sandhill cranes, giant garter snakes,
3 white-faced ibis, and other wetlands-dependent species, depend
4 on the remaining wetlands for their survival.

5 (g) These species are public trust resources, protected by the
6 North American Waterfowl Management Plan, the Migratory Bird
7 Treaty Act, the state and federal Endangered Species Acts, and
8 other state, federal, and international statutes and treaties.

9 (h) Most of the remaining seasonal wetlands are managed to
10 optimize habitat values, with the intent of providing adequate
11 nutrients, nesting cover, and brood water, and other habitat values
12 for migratory waterfowl and other wetlands-dependent species.

13 (i) Managed wetlands have been shown to provide improved
14 habitat values not just for migratory waterfowl and other
15 wetlands-dependent species, but also for salmonids and other fish
16 species that find refuge and nutrition in order to grow strong
17 enough to move on into open waters.

18 (j) Seasonal and managed wetlands can improve the quality of
19 water that is used to flood habitat and then discharged for reuse
20 elsewhere.

21 (k) Water quality regulations should not impose a cost on
22 wetlands, as an important public trust resource, beyond the extent
23 to which wetlands actually contribute to nonpoint source pollution
24 of the waters of the state.

25 SEC. 2. Section 13269.1 is added to the Water Code, to read:

26 13269.1. (a) As a public trust resource, managed wetlands,
27 whether owned and operated by state, federal, or local agencies,
28 or private landowners, shall be presumed not to pose a significant
29 threat to water quality. In accordance with paragraphs (1) and
30 (3) of subdivision (a) of Section 13269, the state board or a
31 regional board shall waive the provisions of subdivisions (a) and
32 (c) of Section 13260, subdivision (a) of Section 13263, and
33 subdivision (a) of Section 13264 with respect to managed wetlands.

34 (b) (1) Notwithstanding paragraphs (2) and (3) of subdivision
35 (a) of Section 13269, unless the results of downstream monitoring
36 of a managed wetland demonstrate a violation of water quality
37 discharge standards, the state board or a regional board shall
38 require water quality monitoring, as described in paragraph (2)
39 of subdivision (a) of Section 13269, of the managed wetland not

1 *more than once during the duration of each waiver period granted*
2 *pursuant to subdivision (a) of Section 13269.*

3 *(2) Monitoring pursuant to this subdivision shall be limited to*
4 *contaminants that are actually applied by wetland managers to*
5 *the managed wetland and contaminants that are known to be*
6 *naturally present in the wetland environment. Monitoring shall*
7 *not include contaminants that are present in the managed wetland*
8 *as a result of third-party activities outside of the managed wetland*
9 *area.*

10 ~~SECTION 1. It is the intent of the Legislature to enact~~
11 ~~legislation to streamline the process for the adjudication of~~
12 ~~groundwater rights.~~