

AMENDED IN ASSEMBLY JULY 5, 2000

AMENDED IN ASSEMBLY JUNE 15, 2000

AMENDED IN SENATE MARCH 27, 2000

SENATE BILL

No. 1775

**Introduced by Senator Johannessen
(Coauthors: Senators Chesbro and Leslie)**

February 23, 2000

An act to amend Sections 1228.1, 1228.2, 1228.3, 1228.5, 1228.8, and 1228.9 of, and to amend the heading of Article 2.7 (commencing with Section 1228) of Chapter 1 of Part 2 of Division 2 of, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1775, as amended, Johannessen. Stockponds; ~~irrigation ponds.~~

Existing law provides for the appropriation of water by filing an application with the State Water Resources Control Board. Existing law provides that the owner of any dam or water impoundment structure constructed prior to January 1, 1969, meeting certain requirements, has a valid water right for the use of water for livestock watering and other prescribed purposes, if that person files a claim of water right with the state board not later than December 31, 1997.

This bill would authorize any person to obtain a right to appropriate water for a livestock stockpond ~~or irrigation pond~~ use, as defined, upon registering the use with the board, as prescribed, payment of a registration fee of \$100, and application of the water to reasonable and beneficial use with

due diligence. The bill would allow a registrant to maintain more than one registration if stockponds ~~or irrigation ponds~~ subject to registration do not exceed the ratio of one per 50 acres. The bill would provide for the renewal of the registration prior to the expiration of each 5-year period following completed registration.

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. The heading of Article 2.7 (commencing
2 with Section 1228) of Chapter 1 of Part 2 of Division 2 of
3 the Water Code is amended to read:

4
5 Article 2.7. Registration of Appropriations for Small
6 Domestic, ~~Irrigation Pond,~~ and Livestock Stockpond
7 Uses
8

9 SEC. 2. Section 1228.1 of the Water Code is amended
10 to read:

11 1228.1. (a) The Legislature finds and declares that it
12 is in the public interest to provide a timely, efficient, and
13 economic procedure for the acquisition of rights to
14 appropriate water for a small domestic use, including
15 incidental stockwatering and irrigation uses, and for
16 livestock stockponds ~~and irrigation ponds,~~ subject to prior
17 rights.

18 (b) As used in this article, “small domestic use” means
19 a domestic use, not to exceed direct diversion of 4500
20 gallons per day or diversion by storage of 10 acre-feet per
21 annum, as that use is defined by board rule, and shall
22 include impoundment for incidental aesthetic,
23 recreational, or fish and wildlife purposes.

24 (c) As used in this article, “livestock stockpond” means
25 a water impoundment structure constructed for livestock
26 watering use not to exceed direct diversion of 4500 gallons
27 per day, or diversion by storage of 10 acre-feet per year,
28 as that use is defined by the board, and including



1 impoundment for incidental aesthetic, recreational, or
2 fish and wildlife purposes.

3 ~~(d) As used in this article, “irrigation pond” means a~~
4 ~~water impoundment structure constructed for irrigation~~
5 ~~use not to exceed direct diversion of 4500 gallons per day,~~
6 ~~or diversion by storage of 10 acre feet per year, as that use~~
7 ~~is defined by the board, and including impoundments for~~
8 ~~incidental aesthetic, recreational, or fish and wildlife~~
9 ~~purposes.~~

10 SEC. 3. Section 1228.2 of the Water Code is amended
11 to read:

12 1228.2. (a) (1) Subject to subdivision (b), any
13 person may obtain a right to appropriate water for a small
14 domestic, ~~irrigation pond~~, or livestock stockpond use
15 upon first registering the use with the board and
16 thereafter applying the water to reasonable and
17 beneficial use with due diligence.

18 (2) With regard to an appropriation for small domestic
19 use, not more than one registration shall be in effect at
20 any time for any facility.

21 (3) With regard to an appropriation for livestock
22 stockpond ~~or irrigation pond~~ use, more than one
23 registration may be in effect at any time for a registrant
24 if stockponds ~~or irrigation ponds~~ subject to registration
25 for that registrant do not exceed the ratio of one per 50
26 acres.

27 (b) Initiation of rights to appropriate water pursuant
28 to this article shall be subject to Article 1.3 (commencing
29 with Section 1205), relating to fully appropriated stream
30 systems. The board shall not accept any registration of
31 water use which proposes as a source of water supply any
32 stream system which has been unconditionally declared
33 by the board to be fully appropriated pursuant to Section
34 1205, except that subdivision (b) of Section 1206, relating
35 to conditional declarations of fully appropriated stream
36 systems, shall apply to registration of water use pursuant
37 to this article, and the board shall accept those
38 registrations where consistent with the conditions
39 specified in any such declaration.



1 (c) On or before June 30, 1989, and annually
2 thereafter, the Division of Water Rights shall prepare and
3 submit to the board a report summarizing the location,
4 nature, and amount of water appropriated pursuant to
5 this article. The report shall include a description of the
6 availability of unappropriated water in those stream
7 systems which may become fully appropriated within the
8 next reporting period.

9 (d) Whenever it can be reasonably anticipated that a
10 stream system may become fully appropriated within the
11 next reporting period, the board shall, following notice
12 and hearing, determine whether that stream system
13 should be declared fully appropriated pursuant to Article
14 1.3 (commencing with Section 1205).

15 SEC. 3.5. Section 1228.3 of the Water Code is
16 amended to read:

17 1228.3. (a) Registration of water use pursuant to this
18 article shall be made upon a form prescribed by the
19 board. The registration form shall set forth all of the
20 following:

- 21 (1) The name and post office address of the registrant.
- 22 (2) The source of water supply.
- 23 (3) The nature and amount of the proposed use.
- 24 (4) The proposed place of diversion.
- 25 (5) The place where it is intended to use the water.
- 26 (6) The time for completion of construction of
27 diversion works and for complete application of the water
28 to the proposed use.
- 29 (7) A certification that the registrant has contacted a
30 representative of the Department of Fish and Game
31 designated by that department for that purpose, has
32 provided information to that department which is set
33 forth in the registration form, and has agreed to comply
34 with all lawful conditions, including, but not limited to,
35 conditions upon the construction and operation of
36 diversion works, required by the Department of Fish and
37 Game. The certification shall include a copy of any
38 conditions required by the Department of Fish and Game
39 pursuant to this paragraph.



1 (8) Any other information that may reasonably be
2 required by the board.

3 (b) Registration of water use shall be deemed
4 completed on the date that the form, executed in
5 substantial compliance with the requirements of this
6 section, and the registration fee specified in subdivision
7 (a) of Section 1228.8 are received by the board.

8 (c) The board shall issue monthly a list of registrations
9 filed under this article during the preceding calendar
10 month. This list shall contain the information required by
11 paragraphs (1) to (6), inclusive, of subdivision (a). The
12 board shall mail the monthly list of registrations filed to
13 any person who so requests.

14 SEC. 4. Section 1228.5 of the Water Code is amended
15 to read:

16 1228.5. (a) Registration of a small domestic,
17 ~~irrigation pond~~, or livestock stockpond use pursuant to
18 this article shall be renewed prior to the expiration of
19 each five-year period following completed registration.

20 (b) Renewal of registration shall be made upon a form
21 prescribed by the board and shall contain such report of
22 water use made pursuant to the registration as may be
23 required by the board.

24 (c) The conditions established by the board pursuant
25 to Section 1228.6 which are in effect at the time of renewal
26 of registration shall supersede the conditions which were
27 applicable to the original completed registration.

28 (d) Failure to renew registration in substantial
29 compliance with the reporting requirements prescribed
30 by the board within the time period specified in
31 subdivision (a), or to pay the renewal fee specified in
32 subdivision (b) of Section 1228.8, shall result by operation
33 of law in the revocation of any right acquired pursuant to
34 this article.

35 SEC. 5. Section 1228.8 of the Water Code is amended
36 to read:

37 1228.8. (a) Every person registering a small
38 domestic, ~~irrigation pond~~, or livestock stockpond use of
39 water shall pay to the board a registration fee of one
40 hundred dollars (\$100).



1 (b) Every person renewing registration of a small
2 domestic, ~~irrigation pond~~, or livestock stockpond use of
3 water shall pay to the board a renewal fee of fifty dollars
4 (\$50).

5 SEC. 6. Section 1228.9 of the Water Code is amended
6 to read:

7 1228.9. With regard to a small domestic use of water,
8 no right to appropriate or use water subject to
9 appropriation may be initiated on and after January 1,
10 1989, except upon compliance with this article, and this
11 article shall be the exclusive means of acquiring and
12 maintaining that right. Nothing in this article shall be
13 construed as affecting any right initiated or acquired
14 pursuant to permit or evidenced by license, and including
15 any application filed but not permitted, prior to January
16 1, 1989.

