

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

SB 697 (Laird)

Version: February 21, 2025

Hearing Date: April 22, 2025

Fiscal: Yes

Urgency: No

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**SUBJECT**

Determination of water rights: stream system

**DIGEST**

This bill removes the requirement that a field investigation by the State Water Resources Control Board (State Water Board) be conducted before granting or denying a petition for an adjudication of the water rights of a stream, and instead requires an investigation to be conducted.

**EXECUTIVE SUMMARY**

Under existing law, the State Water Board is authorized to determine all rights to water of a stream system whether based upon appropriation, riparian right, or other basis of right. This process is generally referred to as statutory adjudication. Under statutory adjudication, a claimant can petition the State Water Board for an adjudication of the water rights of a stream. Before granting or denying a petition, the State Water Board is required to conduct a field investigation to determine if the facts and conditions are such that the public interest and necessity will be served by a determination of the water rights involved. This bill seeks to provide the State Water Board more flexibility in the investigation process by not requiring a field investigation, but allowing one. According to the author, this will allow the State Water Board the ability to use technology in addition to field investigations, which will allow for administrative efficiencies in the statutory adjudication process. This bill is author-sponsored. The bill is supported by the Sierra Club. No timely opposition was received by the Committee. The bill passed the Senate Natural Resources and Water Committee on a vote of 5 to 0.

## **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Authorizes the State Water Board to:
  - a) investigate all streams, stream systems, portions of stream systems, lakes, or other bodies of water;
  - b) take testimony in regard to the rights to water or the use of water; and
  - c) investigate and ascertain whether or not water heretofore filed upon or any claimed riparian or appropriative right is valid under the laws of this state. (Wat. Code § 1051(a).)<sup>1</sup>
- 2) Authorizes the State Water Board, in furtherance of the investigation described in 1)c), above, to issue an information order to a water right holder or claimant to provide certain information related to a diversion and use of water. (§ 1051(b).)
- 3) Authorizes the State Water Board to determine all rights to water of a stream system whether based upon appropriation, riparian right, or other basis of right upon petition by a claimant to water of the steam system requesting the determination of the rights of the various claimants to the water of that stream system. Requires the State Water Board to comply with specific notice, proceeding, and investigation procedures and requires claimants to notify the State Water Board of their intention to file proof of claim and to submit proof of their respective claims. (Wat. Code §§ 2500 et seq.)
- 4) Requires the State Water Board, as soon as practicable after granting the petition, to begin an investigation of the stream system, of the diversion of water, of all beneficial uses being made of the water, and of the water supply available for those uses, and to gather data and information that may be essential to the proper determination of water rights in the stream system. (§ 2550.)
- 5) Requires representatives of the State Water Board to conduct a detailed field investigation of uses of water and to make certain determinations regarding the location, use, purpose, and amount of water diverted after giving 30 days' notice in writing to each person who gave notice of intent to file proof of claim. (§ 2551.)
- 6) Requires each claimant to have available at the field investigation all pertinent information on the extent and nature of the claimant's water use and basis of water right. (§ 2552.)

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<sup>1</sup> All further references are to the Water Code unless specified otherwise.

- 7) Requires that the claimant or the claimant's representative be provided a blank form of proof of claim and a copy of the factual determinations upon conclusion of the field investigation. (§ 2553.)
- 8) Requires the State Water Board to also investigate projects of all water users known to the State Water Board who have not filed a notice of intent to file proof of claim during the investigation of the stream system. (§ 2554.)
- 9) Requires that water users who are not present during the field investigation and who do not file a notice of intent, insofar as they are known, be supplied a copy of the factual determinations of the State Water Board and a blank proof of claim form.
  - a) Specifies that they are allowed to file proof of claim after the investigation has been completed on the same basis as persons who were present and who filed timely notices of intent. (§ 2555.)
- 10) Requires the State Water Board to prepare a report describing the water supply and abstracting the claim of water right of each claimant after all field investigations have been completed and the time for filing proofs of claims has expired. (§ 2600.)
- 11) Requires each person who diverts water to file with the State Water Board a statement of their diversion and use, except as specified. (§ 5101.)

This bill:

- 2) Requires the State Water Board to investigate in detail the use of water by each person who has given notice of intent to file a proof of claim during the investigation of a stream system, instead of requiring a detailed field investigation to be conducted, and makes various conforming changes.
- 3) Authorizes the State Water Board to conduct a field investigation after providing 30 days' written notice to the person subject to the investigation, and makes various conforming changes.
- 4) Requires each claimant to provide the State Water Board all pertinent information on the extent and nature of the claimant's water use and basis of water right, and to respond to an order to submit the information within 45 days of the date of an information order.
  - a) Authorizes an information order to include a requirement that claimants update the information annually during the pendency of an adjudication.
- 5) Authorizes investigations of the projects of all water users to include a field investigation except that the prior notice in 3), above, is not required. Specifies that if prior notice is not given, then the water users are not required to be present during the field investigation.

- 6) Specifies that water users who do not file a notice of intent, insofar as they are known, are to be supplied a copy of the factual determination of the State Water Board representative and a blank form of proof claim, instead of water users not present during the conduct of a filed investigation.

## COMMENTS

### 1. Stated need for the bill

The author writes:

Senate Bill 697 modernizes the State Water Board's investigation of water right claims in stream systems. Currently, the law requires State Water Board staff to travel and perform costly and time intensive in person field investigations along a stream system. Senate Bill 697 allows the Board the option to use modern technology such as satellite imagery and digital data when conducting investigations, increasing efficiency without compromising data accuracy.

### 2. State Water Resources Control Board – statutory adjudications

#### *a. Water rights*

The adjudication of water rights in the state can be complex and involve many parties. According to the State Water Resources Control Board a “water right is a legal entitlement authorizing water to be diverted from a specified source and put to beneficial, nonwasteful use. Water rights are property rights, but their holders do not own the water itself.”<sup>2</sup> Existing state law recognizes three types of water rights – riparian rights, appropriative rights, and groundwater rights. Riparian rights are granted to landowners whose land is adjacent to waterways. Appropriative rights allow the holder to divert water based on a theory of first in time, first in right, and is a relic of the Gold Rush era. Groundwater rights give landowners overlying groundwater basins rights to pump groundwater.

#### *b. This bill seeks to modernize statutory adjudications*

The author argues requiring field investigations places a significant administrative burden on the State Water Board because it can involve enormous amounts of staff time for travel and investigation of potentially thousands of locations within a watershed. This bill seeks to modernize this process by giving the State Water Board more flexibility in conducting these investigations through the use of technology in addition

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<sup>2</sup> State Wat. Resources Control Bd., *The Water Right Process* (updated Aug. 20, 2020), available at [https://www.waterboards.ca.gov/waterrights/board\\_info/water\\_rights\\_process.html](https://www.waterboards.ca.gov/waterrights/board_info/water_rights_process.html).

to field investigations, including satellite imagery, use of evapotranspiration methodologies, and improvements in digital data. The author notes that California has already invested in improving stream gages and digitizing its water rights system to align with technological advancements, and this bill allows water managers to utilize enriched, real-time data from these investments to inform their decisions, which will increase efficiency of the adjudicatory process.

The bill also makes several other changes to increase efficiency of the statutory stream adjudication process, such as requiring each claimant to provide the State Water Board all pertinent information on the extent and nature of the claimant's water use and basis of water right, and to respond to an order to submit the information within 45 days of the date of an information order. Additionally the bill authorizes an information order to include a requirement that claimants update the information annually during the pendency of an adjudication. Lastly, the bill specifies that water users who do not file a notice of intent, insofar as they are known, are to be supplied a copy of the factual determination of the State Water Board representative and a blank form of proof claim, instead of water users not present during the conduct of a filed investigation.

### 3. Statements in support

The Sierra Club writes in support stating:

The primary objective of the legislation is to refine the process by which the State Water Resources Control Board conducts investigations into water rights claims. The bill modifies existing procedures by allowing board representatives to investigate water use in detail without the mandatory requirement of conducting a field investigation.

The State Water Board's ability to investigate water rights claim issues is severely restricted by bureaucracy- strained to complete reports and investigate claims. This bill will streamline these processes so that the State Water Board may complete important investigations into water rights claims in a timely fashion.

### SUPPORT

Sierra Club

### OPPOSITION

None received

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

SB 389 (Allen, Ch. 486, Stats. 2023) authorized the State Water Board to investigate and ascertain whether or not a water right is valid, to issue an information order in furtherance of the investigation, and authorized a diversion of use of water ascertained to be unauthorized to be enforced as a trespass.

**PRIOR VOTES:**

Senate Natural Resources and Water Committee (Ayes 5, Noes 0)

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