

AMADOR WATER AGENCY

SPECIAL MEETING
OF THE
BOARD OF DIRECTORS OF THE
AMADOR WATER AGENCY
HAS BEEN CALLED BY THE PRESIDENT FOR
September 22, 2015
10:00 a.m.
Amador Water Agency
12800 Ridge Rd
Sutter Creek CA 95685

Public Notice: Members of the public will have the opportunity to directly address the Agency Board of Directors concerning any item listed on this Special Meeting Notice before or during consideration of that item.

There is a three minute time limit per person.

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. Assembly Bill 142

1. Discussion and possible action to authorize the Board President to sign and send a letter of support to Governor Brown and authorization of financial support up to \$20,000 for the study identified in the bill.

3. CLOSED SESSION

A. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(a)-
Pending Litigation- Kenneth Perano and Ken Berry vs Amador Water Agency (Amador Superior Court Case No. 12-CV-7718)

B. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(a) and (d)(2) – Threatened Litigation – August 31, 2015
Complaint by Ken Berry to the Fair Political Practices Commission
Regarding August 12, 2015 Board Letter Concerning Drought-Related Financial Crisis

C. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(a) - Anticipated Litigation - Initiation of litigation – Two Cases.

4. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, then please contact Cris Thompson at (209) 223-3018 or (209) 257-5281 (fax). Requests must be made as early as possible, and at least two-full business days before the start of the meeting.

STAFF REPORT

AB 142 Update

Letter of Support and Financial Support

Requested Action:

Authorize the Board President to sign and send a letter of support to Governor Brown and authorize a financial support of up to \$20,000 for the study identified in the bill through an anticipated cost sharing agreement with Upper Mokelumne River Water Authority (UMRWA).

Background:

On September 9, 2015, AB 142 was approved by the Senate 38:0 following a presentation by Senator Berryhill. On September 10, 2015, the bill was approved on the Assembly floor 66:1. The bill is now on the Governor Brown's desk. Our lobbyist, the Gualco Group has drafted a letter of support which has been reviewed by our legal counsel and is recommended for approval.

Fiscal Impact:

The bill authorizes a cost sharing agreement with UMRWA for the study identified in the bill. Estimated financial impacts to the Water Agency range from \$11,500 to \$20,000 depending on participating members of UMRWA.

Reviewed by Committee:

No

Reviewed by Legal Counsel:

Yes

Recommendation:

Authorize the Board President to sign and send a letter of support to Governor Brown and authorize a financial support of up to \$20,000 for the study identified in the bill through an anticipated cost sharing agreement with Upper Mokelumne River Water Authority (UMRWA).

Prepared by: Gene Mancebo, General Manager

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 142

Introduced by Assembly Member Bigelow
(Principal coauthor: Senator Berryhill)

January 12, 2015

An act to amend Section 5093.56 of, and to add Sections 5093.548 and 5093.549 to, the Public Resources Code, relating to wild and scenic rivers.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Bigelow. Wild and scenic rivers: Mokelumne River.

(1) Existing law, the California Wild and Scenic Rivers Act, provides for a system of classification of those rivers or segments of rivers in the state that are designated as wild, scenic, or recreational rivers, for purposes of preserving the highest and most beneficial use of those rivers. The act requires the Secretary of the Natural Resources Agency to study and submit to the Governor and the Legislature a report that analyzes the suitability or nonsuitability for addition to the system of rivers or segments of rivers that are designated by the Legislature as potential additions to the system, and requires that each report contain specified information and recommendations with respect to the proposed designation.

This bill would require the secretary, in a report analyzing the suitability or nonsuitability of a proposed designation of the Mokelumne River, its tributaries, or ~~portions~~ *segments* thereof as additions to the system, to consider the potential effects of the proposed designation on future water requirements, as specified, and the effects of climate change on river values and current and projected water supplies, and to consider other factors. The bill would include ~~any portion~~ *segment* of the Mokelumne River designated for potential addition within certain protections afforded to wild and scenic rivers until the completion of the study period and the implementation of any recommendation to add the ~~portion~~ *segment* of the Mokelumne River to the system, or December 31, 2021, whichever occurs first.

The bill would also designate ~~a specified portion~~ *specified segments* of the Mokelumne ~~River, or any segment of that portion,~~ *River* for potential addition to the system. The bill would require the secretary to submit a report pursuant to the above-described requirements to the Legislature and Governor no later than December 31, 2017, and would require the report to include a clear recommendation on the suitability or nonsuitability for addition to the system of *each of* the designated ~~portion segments~~ of the Mokelumne ~~River or any segment of that portion.~~ *River*. The bill would require the secretary to enter into a cost-sharing agreement with the Upper Mokelumne River Watershed Authority that would require the state and the authority to each pay a specified portion of the cost of the report. By imposing new duties on a local government entity, the bill would impose a state-mandated local program.

(2) The bill would declare that due to the unique geographical features of the Mokelumne River and its tributaries, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. (a) It is the intent of the Legislature that the
2 entities responsible for the Mokelumne Watershed Interregional
3 Sustainability Evaluation Program may seek state funding for
4 which the feasibility studies and assessments described in
5 paragraph (3) of subdivision (a) of Section 5093.548 of the Public
6 Resources Code are eligible.

7 (b) *It is further the intent of the Legislature that, until the*
8 *completion of the study and report referenced in subdivision (c)*
9 *of Section 5093.548 of the Public Resources Code and the*
10 *implementation of any recommendation to add segments to the*
11 *wild and scenic rivers system, or until December 31, 2021,*
12 *whichever occurs first, state and local government entities may*
13 *participate in any collaborative process convened by the Pacific*
14 *Gas and Electric Company to discuss a pumped storage project*
15 *in the upper Mokelumne River watershed, if the project is designed*
16 *to avoid harm to the free-flowing condition and natural character*
17 *of the segments of the river described in Section 5093.549 of the*
18 *Public Resources Code, and to the recreational, cultural, historical,*
19 *scenic, and water quality values of those segments.*

20 SEC. 2. Section 5093.548 is added to the Public Resources
21 Code, to read:

22 5093.548. (a) Notwithstanding Section 5093.547, prior to the
23 designation of the Mokelumne River, its tributaries, or ~~portions~~
24 *segments* thereof as additions to the system, the secretary shall
25 study and submit to the Governor and the Legislature a report that
26 analyzes the suitability or nonsuitability of the proposed
27 designation. The suitability analysis contained in the report shall
28 consider all of the following:

29 (1) The potential effects of the proposed designation on the
30 ability of public agencies and utilities within the Mokelumne River
31 watershed to meet current and projected future water requirements
32 through the development of new and more reliable water supplies
33 from the Mokelumne River and its tributaries. When considering
34 projected future water requirements, the secretary shall only
35 consider feasible projects to meet foreseeable demands.

36 (2) Any effects of climate change on river values described in
37 Section 5093.50 and current and projected water supplies.

1 (3) The following feasibility studies and assessments included
2 within the implementation plan of the Mokelumne Watershed
3 Interregional Sustainability Evaluation, Final Report dated June
4 12, 2015: 7a, 7b, 7d, and 7f. The inclusion of these studies and
5 assessments in this subdivision shall not be construed as an
6 exemption from wild and scenic designation.

7 (4) The instances when the secretary has determined pursuant
8 to Section 5093.55 that a water diversion facility may be
9 constructed on a river or segment of a river that is part of the
10 system.

11 (5) The instances when the State Water Resources Control Board
12 has approved an application to appropriate water from a river or
13 a segment of a river that is part of the system and what restrictions,
14 if any, were placed on the appropriation of water as a result of the
15 river or segment of a river's inclusion in the system.

16 (b) The report shall also include the information required in
17 subdivision (b) of Section 5093.547 and the secretary's
18 recommendations and proposals with respect to the proposed
19 designation.

20 (c) The report required for the ~~portion segments~~ of the
21 Mokelumne River designated for potential addition to the system
22 pursuant to Section 5093.549 shall be submitted to the Legislature
23 and Governor no later than December 31, 2017, and shall include
24 a clear recommendation on the suitability or nonsuitability for
25 addition to the system of *each of the designated ~~portion segments~~*
26 *of the Mokelumne ~~River or any segment of that portion.~~ River.*

27 (d) A study undertaken by the secretary pursuant to subdivision
28 (a) shall provide for public input from a broad range of
29 stakeholders.

30 (e) A report required to be submitted pursuant to subdivision
31 (a) shall be submitted in compliance with Section 9795 of the
32 Government Code.

33 (f) Until the completion of the study period and the
34 implementation of any recommendation to add segments to the
35 system, or December 31, 2021, whichever occurs first, no dam,
36 reservoir, diversion, or other water impoundment facility may be
37 constructed on any segment designated for study by the secretary
38 as a potential addition to the system unless the secretary determines
39 that the facility is needed to supply domestic water to the residents
40 of the county or counties through which the river and segment

1 flows and the secretary determines that the facility will not
2 adversely affect the free-flowing condition and natural character
3 of the river and segment. This subdivision shall not apply to, and
4 shall not in any way affect, Amador Water Agency's water rights
5 application 5647X03 pending before the State Water Resources
6 Control Board.

7 (g) (1) The secretary shall develop a cost estimate of the study
8 and report required by subdivision (c) and enter into a cost-sharing
9 agreement with the Upper Mokelumne River Watershed Authority.
10 The cost-sharing agreement shall require that the state pay not
11 more than 50 percent of the cost of the study and report required
12 by subdivision (c), with the remaining cost to be paid by the
13 authority. The payment by the authority may consist of
14 appropriated funds or a contribution of services.

15 (2) Nothing in this section shall preclude any private donations
16 or contributions from interested parties to be used for the purposes
17 of this subdivision.

18 SEC. 3. Section 5093.549 is added to the Public Resources
19 Code, to read:

20 5093.549. ~~The portion of the Mokelumne River, or any segment~~
21 ~~of that portion, located from one-half mile downstream of the Salt~~
22 ~~Springs 97-066 Dam to the upper extent of the Pardee Reservoir~~
23 ~~at the elevation of not less than 580 feet above mean sea level is~~
24 *following segments of the North Fork and main stem Mokelumne*
25 *River are hereby designated for potential addition to the system.*

26 (a) *The North Fork Mokelumne River from 0.50 miles*
27 *downstream of the Salt Springs 97-006 Dam to 0.50 miles upstream*
28 *of the Tiger Creek Powerhouse.*

29 (b) *The North Fork Mokelumne River from 1,000 feet*
30 *downstream of the Tiger Creek Afterbay 97-105 Dam to State*
31 *Highway Route 26.*

32 (c) *The North Fork Mokelumne River from 400 feet downstream*
33 *of the small reregulating dam at the outlet of the West Point*
34 *Powerhouse to the confluence of the North and Middle Forks of*
35 *the Mokelumne River.*

36 (d) *The main stem of the Mokelumne River from the confluence*
37 *of the North and Middle Forks to 300 feet upstream of the Electra*
38 *Powerhouse.*

39 (e) *The main stem of the Mokelumne River from 300 feet*
40 *downstream of the small reregulating dam downstream of the*

1 *Electra Powerhouse to the Pardee Reservoir flood surcharge pool*
2 *at 580 feet elevation above mean sea level.*

3 SEC. 4. Section 5093.56 of the Public Resources Code is
4 amended to read:

5 5093.56. No department or agency of the state may assist or
6 cooperate, whether by loan, grant, license, or otherwise, with any
7 department or agency of the federal, state, or local government,
8 in the planning or construction of a dam, reservoir, diversion, or
9 other water impoundment facility that could have an adverse effect
10 on the free-flowing condition and natural character of either of the
11 following:

12 (a) The rivers and segments thereof designated in Section
13 5093.54 as included in the system.

14 (b) ~~The portion~~ *segments* of the Mokelumne River designated
15 in Section 5093.549 for study by the secretary as ~~a potential~~
16 ~~addition~~ *additions* to the system until after the study period and
17 implementation of any recommendations have been completed,
18 or December 31, 2021, whichever occurs first. This subdivision
19 shall not apply to, and shall not in any way affect, Amador Water
20 Agency's water rights application 5647X03 pending before the
21 State Water Resources Control ~~Board~~, *Board*, or *prejudice, alter,*
22 *affect in any way, or interfere with the maintenance, repair, or*
23 *operation by the Pacific Gas and Electric Company of the*
24 *Mokelumne River Project (FERC 137) currently under the 2001*
25 *Federal Energy Regulatory Commission license for the project,*
26 *the incorporated settlement agreement, any license amendments*
27 *made with the agreement of the parties to the incorporated*
28 *settlement agreement, and any adjustment of flows permitted to*
29 *occur pursuant to the license for enhancement of ecological*
30 *resources.*

31 SEC. 5. Due to the unique geographical features of the
32 Mokelumne River and its tributaries, the Legislature hereby finds
33 and declares that a special law is necessary and a general law
34 cannot be made applicable within the meaning of Section 16 of
35 Article IV of the California Constitution.

36 SEC. 6. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district are the result of a program for which legislative authority
40 was requested by that local agency or school district, within the

- 1 meaning of Section 17556 of the Government Code and Section
- 2 6 of Article XIII B of the California Constitution.

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