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SB-307 Water conveyance: use of facility with unused capacity. (2019-2020)

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Senate Bill No. 307

CHAPTER 169

An act to add Section 1815 to the Water Code, relating to water.

[Approved by Governor July 31, 2019. Filed with Secretary of State July 31, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 307, Roth. Water conveyance: use of facility with unused capacity.

Existing law prohibits the state or a regional or local public agency from denying a bona fide transferor of water from using a water conveyance facility that has unused capacity for the period of time for which that capacity is available, if fair compensation is paid for that use and other requirements are met.

This bill would, notwithstanding that provision, prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, as defined, that is in the vicinity of specified federal lands or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife and the Department of Water Resources, finds that the transfer of the water will not adversely affect the natural or cultural resources of those federal or state lands, as provided. The bill would require a transferor of water to submit an application to the commission before using a water conveyance facility pursuant to these provisions. The bill would require, if the commission finds that the transfer of the water will not adversely affect the natural or cultural resources of those federal and state lands, the transferor of water to annually report to the commission on the condition of the groundwater basin.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

- (a) The federal government and the State of California own extensive public lands in the Mojave Desert, where private land ownership is less common than in other areas of the state.
- (b) The federal government has established the Mojave National Preserve and the Mojave Trails National Monument to protect the natural and cultural resources on those federal public lands.
- (c) The state and federal governments hold these public lands in trust for the people of California and the United States.

SEC. 2. Section 1815 is added to the Water Code, to read:

1815. (a) Notwithstanding Section 1810, a transferor of water shall not use a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands that is in the vicinity of a national monument, a national

preserve, a national park, a state or federal wilderness area, or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife and the department, finds, upon receipt of an application pursuant to subdivision (b), that the transfer of the water will not adversely affect the natural or cultural resources, including groundwater resources or habitat, of those federal or state lands.

(b) (1) Before using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, a transferor of water shall submit an application to the State Lands Commission for review of the proposed transfer. The application shall include, at a minimum, both of the following:

(A) The names of the transferor and the owner of the water conveyance facility.

(B) Data and reports pertinent to making the finding described in this section.

(2) (A) The State Lands Commission shall review an application submitted pursuant to paragraph (1) and, within 15 months of receipt of the application and in consultation with the Department of Fish and Wildlife and the department, shall make a written finding, available to the public, on whether the proposed transfer will not adversely affect the natural or cultural resources, including groundwater resources or habitat, of the federal or state lands described in subdivision (a).

(B) If the State Lands Commission, in consultation with the Department of Fish and Wildlife and the department, determines that it cannot make a finding pursuant to subparagraph (A) within 15 months, the commission may extend the date by which the commission is required to make the finding to no later than 24 months from the date of receipt of the application. If it determines an extension pursuant to this subparagraph is needed, the commission shall make its justifications for the extension and an approximate timeline for the duration of the extension available to the public.

(c) In making the finding described in this section, the State Lands Commission shall review all available scientific information, including peer-reviewed and published studies, in consultation with the Department of Fish and Wildlife and the department.

(d) If the State Lands Commission finds that a proposed transfer of water underlying desert lands will not adversely affect the natural or cultural resources of state or federal lands, the commission shall require the transferor of water to report, on an annual basis, to the commission information, as the commission may define, on the condition of the groundwater basin.

(e) For purposes of this section, "desert lands" means the portion of California located within the following area:

Beginning at Interstate 15 and the intersection of the range line between Ranges 5 and 6 East, Township 11 North, San Bernardino Baseline and Meridian, southerly along those range lines to the intersection with Interstate 40 in Township 8 North, San Bernardino Baseline and Meridian;

Thence easterly along Interstate 40 to the intersection of Interstate 40 and the range lines between Ranges 12 and 13 East, Township 7 North, San Bernardino Baseline and Meridian;

Thence southerly along the range lines between Ranges 12 and 13 East to the intersection with State Highway Route 62 in Township 1 South, San Bernardino Baseline and Meridian;

Thence easterly along State Highway Route 62 to the intersection with United States Highway 95;

Thence northerly along United States Highway 95 to the California-Nevada boundary;

Thence northerly along the California-Nevada boundary to Interstate 15;

Thence westerly along Interstate 15 to the point of beginning.