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AB-1146 Water infrastructure: dams and reservoirs: water release: false pretenses. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1146

Introduced by Assembly Member Papan

February 20, 2025

An act to ~~amend Section 6425 of, and to~~ add Sections 6033 and 6034 ~~to, to~~ the Water Code, relating to dams and reservoirs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1146, as amended, Papan. Water infrastructure: dams and reservoirs: water release: false pretenses.

Existing law provides for the regulation and supervision of dams and reservoirs exclusively by the state. *Under existing law, a person who violates certain provisions related to the regulation and supervision of dams and reservoirs or of any approval, order, rule, regulation, or requirement of the Department of Water Resources is guilty of a misdemeanor, as specified.*

This bill would prohibit the release of stored water from a reservoir *owned and operated by the United States* in this state if the release is done under false pretenses, which the bill would define to mean a release of water from a reservoir *owned and operated by the United States* in a manner that is knowingly, designedly, and intentionally under any false or fraudulent representation as to the purpose and intended use of the water. The bill would authorize the State Water Resources Control Board ~~to issue an interim relief order, as specified, to a reservoir operator to prohibit the release of stored water in or the Attorney General, as provided, to bring an action for injunctive relief for a~~ violation of the above-described prohibition. ~~The bill would authorize the board to commence an interim relief proceeding on its own motion. The bill would make any person who violates these provisions civilly liable in an amount not to exceed \$10,000 for each day in which the violation occurs. The bill would also require these penalties to apply to the United States to the extent authorized under federal law, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.~~

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 Local Program: ~~no~~yes

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

SECTION 1. Section 6033 is added to the Water Code, immediately following Section 6032, to read:

6033. (a) The release of stored water from a reservoir *owned and operated by the United States* in this state is prohibited if the release is done under false pretenses.

(b) A release under false pretenses shall mean a release of water from a reservoir *owned and operated by the United States* in a manner that is knowingly, designedly, and intentionally under any false or fraudulent representation as to the purpose and intended use of the water.

~~SEC. 2. Section 6034 is added to the Water Code, to read:~~

~~6034. (a)(1) The board may issue an interim relief order to a reservoir operator to prohibit the release of stored water that may be in violation of Section 6033.~~

~~(2) The board may commence an interim relief proceeding on its own motion.~~

~~(b) Except as provided in subdivision (c), the board shall provide notice at least 10 days before the date of the hearing.~~

~~(c) The board may issue an interim order before the opportunity for a hearing as long as the order includes a finding by the board that immediate compliance with the order is necessary because the release of water is in violation of subdivision (a) of Section 6033 or will prevent imminent or irreparable injury to any of the following:~~

~~(1) Public health, safety, or welfare.~~

~~(2) Other legal users of water.~~

~~(3) Instream beneficial uses of water.~~

~~(d) If the board issues an interim relief order before the opportunity for a hearing, it shall, at the request of the party to whom the order is issued, hold a hearing within 15 days of the date the board receives a request for a hearing, unless the party to whom the interim relief order is issued agrees to an extension of that period.~~

~~(e) An interim relief order issued by the board shall remain in effect for a period not to exceed 30 days unless the party to whom the interim relief order is issued agrees to an extension of that period. This subdivision is not a limitation on the authority of the board to issue any additional interim relief in response to changed circumstances.~~

~~SEC. 3. Section 6425 of the Water Code is amended to read:~~

~~6425. (a) Every person who violates any of the provisions of this part or of any approval, order, rule, regulation, or requirement of the department is guilty of a misdemeanor and punishable by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail not exceeding six months, or both. In the event of a continuing violation each day that the violation continues constitutes a separate and distinct offense. This subdivision shall not apply to a violation of Section 6033 or any order issued by the board pursuant to Section 6034.~~

~~(b)(1) Every person who violates Section 6033 or any order issued by the board pursuant to Section 6034 may be held civilly liable in an amount not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.~~

~~(2) The penalties established under this section apply to the United States to the extent authorized under federal law, including the McCarran Amendment of 1952 (codified at 43 U.S.C. Sec. 666).~~

~~(3) If the United States declines to pay a penalty, or the board determines that the United States is likely to decline to pay a fee or expense, the board may do any of the following:~~

~~(A) Initiate appropriate action to collect the fee or expense, including any appropriate enforcement action for failure to pay the fee or expense, if the board determines that the federal law authorizes the collection of the fee or expense.~~

~~(B) Allocate the right to collect the fee or expense, or an appropriate portion of the fee or expense, to persons or entities who have contracts for the delivery of water from the person or entity on whom the fee or expense was initially imposed. The~~

~~allocation of the fee or expense to a contractor does not affect ownership of a permit, license, or other water right, and does not vest an equitable title in the contractor.~~

~~(C)Enter into a contractual arrangement that requires the United States to reimburse the board, in whole or in part, for the services furnished by the board, either directly or indirectly, in connection with the activity for which the fee or expense is imposed.~~

~~(D)Refuse to process any application, registration, petition, request, or proof of claim for which the fee or expense is not paid, if the board determines that refusal would not be inconsistent with federal law or the public interest.~~

SEC. 2. *Section 6034 is added to the Water Code, to read:*

6034. *An action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction, may be brought by the board, the Attorney General on behalf of the board, or in the Attorney General's independent capacity in the name of the people of the State of California, where a release of stored water is threatened, is occurring, or has occurred in violation of Section 6033.*

SEC. 3. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*