

## SB 1153 STAFF MEASURE SUMMARY

### Senate Committee On Natural Resources and Wildfire

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**Meeting Dates:** 3/25

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#### WHAT THE MEASURE DOES:

The measure prohibits the approval of water right transfer applications that result in a loss of in-stream habitat for sensitive, threatened, or endangered aquatic species in certain stream reaches or contribute to water quality impairment in certain streams. The measure also allows federally recognized Tribes to elect to review water right transfer applications in specific counties and provide information on the applications to the Water Resources Department.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: May have revenue impact, but no statement yet issued.

#### Detailed Summary:

Prohibits the Water Resources Department (OWRD) from approving the following types of water right applications or transfers if they would result in a loss of in-stream habitat for sensitive, threatened, or endangered aquatic species in stream reaches not protected by an existing water right or contribute to water quality impairment in water quality limited streams:

- Section 1: a change in the point of diversion (POD), point of appropriation, or application to allow the appropriation of groundwater or use of water on land to which right is not appurtenant (place of use).
- Section 2: a water right application or change in place of use of a water right that proposes the use of water outside of basin of origin.
- Section 3: transfer of a supplemental water right or permit; or a proposed change when a government action results in or creates a reasonable expectation of change in surface water level that impairs or threatens access to a POD.
- Section 4: a change in type of use of stored water.
- Section 5: temporary transfer of primary and supplemental water rights.
- Section 6: makes conforming amendments to statutory provisions that address orders of the Water Resources Commission related to transfers.
- Section 7: a change to the **point of diversion** to allow use of groundwater instead of surface water under existing water right.

Directs the Water Resources Department (OWRD) to offer federally recognized tribes an opportunity to review water right transfer applications within specific counties and, provide information to OWRD if a proposed transfer would cause injury to tribal or other existing water rights; enlarge a water right; impact a tribal cultural resource; result in a loss of in-stream habitat for sensitive, threatened, or endangered aquatic species in stream reaches not protected by an existing water right; or contribute to water quality impairment in water quality limited streams to tribal water rights.

Authorizes OWRD to condition water right transfers with water use and water level measurement and reporting and the installation of fish screening or bypass devices. Specifies that the conditions apply to an entire water right regardless of the change that is proposed.

#### ISSUES DISCUSSED:

#### EFFECT OF AMENDMENT:

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*This summary has not been adopted or officially endorsed by action of the committee.*

No amendment.

**BACKGROUND:**

Water rights are appurtenant or attached to the specific property where the water use is authorized and transfer with property sales unless excluded in the deed or the buyer is notified of a separate transfer. To change the place of use, type of use, or point of diversion of a water right, a transfer application must be approved by the Water Resources Department (OWRD). The applicant must be the landowner, have their consent, or prove sufficient interest in the water right. A water right transfer may not enlarge a water right or injure other water rights.

PRELIMINARY