

Introduced by Senator Perata

February 25, 2000

An act to add Chapter 8.3 (commencing with Section 1450) to Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1973, as introduced, Perata. Public Utilities Commission: water conveyance: fair compensation.

Existing law prohibits the state or a regional or local public agency from denying a bona fide transferor of water, as defined, 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. Existing law defines "fair compensation" to mean the reasonable charges incurred by the owner of the conveyance system, as specified.

This bill would authorize any bona fide transferor to file a petition with the Public Utilities Commission for a determination of the fair compensation that a state, regional, or local public agency that owns a water conveyance facility may charge for the bona fide transferor's proposed use of unused capacity in the facility. The bill would give the commission exclusive authority to determine the fair compensation applicable to the proposed use of unused capacity, as prescribed.

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

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

SECTION 1. Chapter 8.3 (commencing with Section 1450) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 8.3. DETERMINATION OF FAIR COMPENSATION
FOR JOINT USE OF CAPACITY IN WATER CONVEYANCE
FACILITIES

1450. The Legislature finds and declares all of the following:

(a) In 1986, the Legislature enacted Article 4 (commencing with Section 1810) of Chapter 10.5 of Part 2 of Division 2 of the Water Code, commonly referred to as the wheeling statutes, declaring at that time that it was the policy of the state to facilitate the voluntary sale, lease, and exchange of water and to allow open access to water conveyance facilities where there is unused capacity, if fair compensation is paid.

(b) The purpose of a voluntary water market is to create greater efficiencies and meet increasing demands for additional water supplies while creating relatively equal opportunities for all market participants.

(c) A functioning wholesale water market, which necessarily includes the assurance of reasonable wheeling charges for unused capacity, should provide voluntary sellers of water with the opportunity to sell to more than one buyer, and should provide voluntary buyers of water with the opportunity to buy from more than one seller. By contrast, without the assurance of reasonable wheeling charges, competition among voluntary buyers and sellers of water will be reduced or eliminated. In addition, wholesale water customers should benefit from the assurance of reasonable wheeling charges because it should facilitate cost-effective options for locating additional water supplies.

(d) It is the intent of the Legislature, that upon the filing of a petition by a bona fide transferor, the commission have the exclusive authority to determine

1 the amount of fair compensation that a state, regional, or
2 local public agency that owns a water conveyance facility
3 may charge for the transferor's use of unused capacity in
4 the facility.

5 1451. (a) As used in this section, the terms "bona fide
6 transferor," "fair compensation," and "unused capacity"
7 have the same meanings as defined in Section 1811 of the
8 Water Code.

9 (b) Notwithstanding Section 1812 of the Water Code,
10 any bona fide transferor may file a petition with the
11 commission for a determination of the amount of fair
12 compensation that a state, regional, or local public agency
13 that owns a water conveyance facility may charge for a
14 bona fide transferor's proposed use of unused capacity in
15 the facility.

16 (c) The commission, upon the filing of a petition
17 pursuant to subdivision (b), shall have the exclusive
18 authority to determine and set the amount of fair
19 compensation applicable to the proposed use of unused
20 capacity.

21 (d) The commission shall cause a copy of the petition
22 to be served upon the affected public water conveyance
23 facility owner.

24 (e) The commission shall immediately commence
25 hearing proceedings in accordance with Chapter 9
26 (commencing with Section 1701).

27 (f) In making its determination setting the amount of
28 fair compensation, the commission may include only the
29 costs incurred from the use of the particular facilities and
30 services used in connection with a water transfer. Those
31 costs may include the recapture of the legitimate capital
32 investment of the water conveyance facility owner in its
33 water delivery infrastructure association with the
34 particular services and facilities used, as determined by
35 the commission, including legitimate operation and
36 maintenance costs associated with the facilities, in
37 recognition of the fiduciary responsibilities of the water
38 conveyance facility owner to protect the integrity of the
39 system that it operates. Any determination of fair
40 compensation by the commission may not include

- 1 charges to allow the water conveyance facility owner to
- 2 recover costs for all of its facilities on a systemwide basis.

