

AMENDED IN SENATE MAY 1, 2000  
AMENDED IN SENATE APRIL 13, 2000

**SENATE BILL**

**No. 1973**

**Introduced by Senator Perata**

February 25, 2000

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An act to add Chapter 8.3 (commencing with Section 1450) to Part 1 of Division 1 of the Public Utilities Code, *and to add Section 1811.5 to the Water Code*, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1973, as amended, 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 an adjudication of whether the determination of the amount of fair compensation, as defined, made by a state, regional, or local public agency for the proposed use of unused capacity in a water conveyance facility is consistent with a specified definition and guidelines. The bill would require the commission to remand the case to the state, regional, or local public agency, unless the commission determines that the public interest would be impaired by a delay. In that case, the commission would determine the amount of fair compensation, 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:*

1 SECTION 1. Chapter 8.3 (commencing with Section  
2 1450) is added to Part 1 of Division 1 of the Public Utilities  
3 Code, to read:

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

8

9 1450. The Legislature finds and declares all of the  
10 following:

11 (a) In 1986, the Legislature enacted Article 4  
12 (commencing with Section 1810) of Chapter 10.5 of Part  
13 2 of Division 2 of the Water Code, commonly referred to  
14 as the wheeling statutes, declaring at that time that it was  
15 the policy of the state to facilitate the voluntary sale, lease,  
16 and exchange of water and to allow open access to water  
17 conveyance facilities where there is unused capacity, if  
18 fair compensation is paid.

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

23 (c) A functioning wholesale water market, which  
24 necessarily includes the assurance of reasonable wheeling  
25 charges for unused capacity, should provide voluntary



1 sellers of water with the opportunity to sell to more than  
2 one buyer, and should provide voluntary buyers of water  
3 with the opportunity to buy from more than one seller.  
4 By contrast, without the assurance of reasonable  
5 wheeling charges, competition among voluntary buyers  
6 and sellers of water will be reduced or eliminated. In  
7 addition, wholesale water customers should benefit from  
8 the assurance of reasonable wheeling charges because it  
9 should facilitate cost-effective options for locating  
10 additional water supplies.

11 (d) It is the intent of the Legislature, that upon the  
12 filing of a petition by a bona fide transferor, the  
13 commission have the exclusive authority to determine  
14 the amount of fair compensation that a state, regional, or  
15 local public agency that owns a water conveyance facility  
16 may charge for the transferor's use of unused capacity in  
17 the facility.

18 1451. (a) As used in this section, the terms "bona fide  
19 transferor," "fair compensation," and "unused capacity"  
20 have the same meanings as defined in Section 1811 of the  
21 Water Code.

22 ~~(b) Notwithstanding Section 1812 of the Water Code,~~  
23 ~~any bona fide transferor may file a petition with the~~  
24 ~~commission for a determination of the amount of fair~~  
25 ~~compensation that a state, regional, or local public agency~~  
26 ~~that owns a water conveyance facility may charge for a~~  
27 ~~bona fide transferor's proposed use of unused capacity in~~  
28 ~~the facility.~~

29 ~~(c) The commission, upon the filing of a petition~~  
30 ~~pursuant to subdivision (b), shall have the exclusive~~  
31 ~~authority to determine and set the amount of fair~~  
32 ~~compensation applicable to the proposed use of unused~~  
33 ~~capacity.~~

34 ~~(d) The commission shall cause a copy of the petition~~  
35 ~~to be served upon the affected public water conveyance~~  
36 ~~facility owner.~~

37 ~~(e) The commission shall immediately commence~~  
38 ~~hearing proceedings in accordance with Chapter 9~~  
39 ~~(commencing with Section 1701).~~

1 (b) (1) Any bona fide transferor may file a complaint  
2 with the commission concerning the determination of the  
3 amount of fair compensation for the proposed use of  
4 unused capacity in a water conveyance facility that a  
5 state, regional, or local public agency establishes pursuant  
6 to Section 1812 of the Water Code.

7 (2) The commission may adjudicate complaints filed  
8 pursuant to paragraph (1) as soon as the commission  
9 establishes and publishes the guidelines on the meaning  
10 of "fair compensation" required by Section 1452.

11 (c) (1) The commission, upon the filing of a  
12 complaint pursuant to subdivision (b), has the exclusive  
13 authority to adjudicate whether the determination of the  
14 amount of fair compensation is consistent with the  
15 definition of "fair compensation" as interpreted by the  
16 guidelines established pursuant to Section 1452. If the  
17 commission finds that the amount of fair compensation is  
18 not consistent with the definition of "fair compensation"  
19 as interpreted by the guidelines established pursuant to  
20 Section 1452, the commission shall remand the case back  
21 to the state, regional, or local public agency for a  
22 redetermination of the amount of fair compensation.

23 (2) If the commission finds that remanding the case  
24 pursuant to paragraph (1) would cause a delay that would  
25 impair the public interest, the commission may  
26 determine the amount of fair compensation based on the  
27 evidence in the complaint record.

28 1452. The commission shall open a proceeding to  
29 establish guidelines on the meaning of "fair  
30 compensation" as defined in Section 1811 of the Water  
31 Code. This proceeding shall be opened on or before  
32 January 31, 2001, and shall be completed on or before  
33 December 31, 2001.

34 SEC. 2. Section 1811.5 is added to the Water Code, to  
35 read:

36 1811.5. (a) Pursuant to Section 1452 of the Public  
37 Utilities Code, on or before December 31, 2001, the Public  
38 Utilities Commission shall establish guidelines on the  
39 meaning of "fair compensation" as defined in Section  
40 1811.

1     *(b) Any complaint as to a determination by a state,*  
2     *regional, or local public agency with regard to fair*  
3     *compensation is subject to Chapter 8.3 (commencing*  
4     *with Section 1450) of Part 1 of Division 1 of the Public*  
5     *Utilities.*

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