

AMENDED IN SENATE MAY 9, 2000

AMENDED IN SENATE MAY 1, 2000

AMENDED IN SENATE APRIL 13, 2000

**SENATE BILL**

**No. 1973**

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**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 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 *for a redetermination*, unless the commission determines that the public interest would be impaired by a delay. In that case, the commission would *be authorized to* 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:*

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

1 and sellers of water will be reduced or eliminated. In  
2 addition, wholesale water customers should benefit from  
3 the assurance of reasonable wheeling charges because it  
4 should facilitate cost-effective options for locating  
5 additional water supplies.

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

13 1451. (a) As used in this section, the terms “bona fide  
14 transferor,” “fair compensation,” and “unused capacity”  
15 have the same meanings as defined in Section 1811 of the  
16 Water Code.

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

23 (2) The commission may adjudicate complaints filed  
24 pursuant to paragraph (1) as soon as the commission  
25 establishes and publishes the guidelines on the meaning  
26 of “fair compensation” required by Section 1452.

27 (c) (1) The commission, upon the filing of a  
28 complaint pursuant to subdivision (b), has the exclusive  
29 authority to adjudicate whether the determination of the  
30 amount of fair compensation is consistent with the  
31 definition of “fair compensation” as interpreted by the  
32 guidelines established pursuant to Section 1452. If the  
33 commission finds that the amount of fair compensation is  
34 not consistent with the definition of “fair compensation”  
35 as interpreted by the guidelines established pursuant to  
36 Section 1452, the commission, *except as authorized by*  
37 *paragraph (2)*, shall remand the case back to the state,  
38 regional, or local public agency for a redetermination of  
39 the amount of fair compensation.

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

6 1452. The commission shall open a proceeding to  
7 establish guidelines on the meaning of “fair  
8 compensation” as defined in Section 1811 of the Water  
9 Code. This proceeding shall be opened on or before  
10 January 31, 2001, and shall be completed on or before  
11 December 31, 2001.

12 SEC. 2. Section 1811.5 is added to the Water Code, to  
13 read:

14 1811.5. (a) Pursuant to Section 1452 of the Public  
15 Utilities Code, on or before December 31, 2001, the Public  
16 Utilities Commission shall establish guidelines on the  
17 meaning of “fair compensation” as defined in Section  
18 1811.

19 (b) Any complaint as to a determination by a state,  
20 regional, or local public agency with regard to fair  
21 compensation is subject to Chapter 8.3 (commencing  
22 with Section 1450) of Part 1 of Division 1 of the Public  
23 Utilities.

