



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

REVISED 9-9

April 7, 1998

To: Board of Directors (Committee on Legislation--Information)
(Water Planning and Resources Committee--Information)

From: *ga* General Manager
General Counsel

Edmundo J. Mea III
T. Gregory Taylor

Subject: Report on Proposed Assembly Bill 2027 (Machado-Linden)

RECOMMENDATION

For information only.

DETAILED REPORT

Assemblyman Machado (Linden) has proposed AB 2027 regarding the allowable profits in water transfers. This bill would make legislative findings regarding, and enact prohibitions against, recovery of "excess profits" or the imposition of "excess costs" in water transfer agreements.

AB 2027 finds that water is a public resource, in which the public has invested billions of dollars, and that it is not the intent of the Legislature to encourage the sale of public water resources "at an excess profit or excess cost to the public." Neither excess profit nor excess cost to the public are defined. However, the Director of DWR is granted the authority to determine whether a proposed transfer would result in excess profit or cost, and to prohibit a transfer that does. Specific criteria which the director must consider are the recent cost of water to both the seller and buyer; the effect of the proposed transfer on customers of the parties or others who share the water; the benefits of the transfer to the parties; potential adverse economic or environmental consequences of the transfer; statewide water conditions; and whether the transfer is consistent with Article X, Section 2 of the California Constitution.

To the extent the bill would reduce the costs of water transfers, it would reduce Metropolitan's costs to meet its water supply and reliability goals. However, the determination of just what level of profit or cost is "excessive" would be extremely difficult to reduce to objective factors, especially considering the variety of hydrologic conditions, water rights, methods of making transfer water available, and supply needs in the state.

Staff continues to analyze the bill to determine how its underlying concept can be implemented, while still encouraging a healthy voluntary water transfer market.

JFR:mg
#9789

Attachments

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

ASSEMBLY BILL

No. 2027

Introduced by Assembly Member Machado

February 18, 1998

An act to add Chapter 3.8 (commencing with Section 390) to Division 1 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as introduced, Machado. Water transfers.

Existing law regulates water transfers.

This bill would make a legislative finding and declaration that water, that is the subject of a proposed transfer, should not be sold by or to a public water district at an excess profit or excess cost to the public. The bill would make a statement of legislative intent to grant to the Director of Water Resources the authority, on the basis of specified criteria, to determine whether water that is the subject of a proposed transfer, is proposed to be sold at an excess profit or excess cost to the public and, if so, to require the director to prohibit that transfer. The bill would make related findings and declarations.

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

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

- 1 SECTION 1. The Legislature finds and declares all of
- 2 the following:
- 3 (a) Water is a public resource.

AB 2027

— 2 —

1 (b) The public has invested billions of tax dollars to
2 develop California's water resources for beneficial uses.

3 (c) Although water transfers between willing
4 purchasers and sellers can help to promote the most
5 efficient use of water, it is not the intent of the Legislature
6 to encourage the sale of our public water resources at an
7 excess profit or excess cost to the public.

8 SEC. 2. Chapter 3.8 (commencing with Section 390)
9 is added to Division 1 of the Water Code, to read:

10

11 CHAPTER 3.8. PROHIBITION ON EXCESS PROFITS

12

13 390. The Legislature finds and declares that water,
14 that is the subject of a proposed transfer, should not be
15 sold by or to a public water district at an excess profit or
16 excess cost to the public.

17 390.2. It is the intention of the Legislature to grant to
18 the director the authority to determine whether water,
19 that is the subject of a proposed transfer, is proposed to
20 be sold at an excess profit or excess cost to the public and,
21 if so, to require the director to prohibit that transfer.

22 390.4. Upon the director being granted the authority
23 described in Section 390.2, it is the intention of the
24 Legislature that the director, in exercising that authority,
25 consider all of the following:

26 (a) The cost of water paid by the seller and the
27 purchaser during the preceding 12 months.

28 (b) The effect of the proposed transfer on the price of
29 water for other water users who share or otherwise rely
30 on the water resources of the purchaser or the seller.

31 (c) The benefits of the proposed transfer to the
32 purchaser and the seller.

33 (d) The adverse economic or environmental
34 consequences of the proposed transfer that may affect the
35 area from which the water is proposed to be transferred,
36 the area through which the water is proposed to be
37 transferred, and the area to which the water is proposed
38 to be transferred.

39 (e) Statewide water conditions.

— 3 —

AB 2027

1 (f) Whether the proposed transfer, if undertaken,
2 would violate Section 2 of Article X of the California
3 Constitution.

o

└