

- **Board of Directors**
Communications and Legislation Committee

March 8, 2005 Board Meeting

8-5

Subject

Express support for SB 866 (Kehoe) - Water Use Measurement

Description

Staff recommends the Board adopt a “support” position on Senate Bill 866 (Kehoe - San Diego).

Background

The August 2000 CALFED Record of Decision recognized appropriate measurement can play an important role in effective water management and directed the development of policies to improve water measurement in California. The provisions of SB 866 by Senator Christine Kehoe (D-San Diego) reflect one component of a multi-year effort by the California Bay-Delta Authority to address water management objectives. To develop water management approaches, CBDA convened an independent scientific review panel, two ad hoc stakeholder work groups, and numerous technical and public workshops to identify water use measurement gaps and needs. CBDA unanimously approved the resulting water management plan -- which acknowledged the likely need for statutory changes -- in April of 2004.

Bill Summary

SB 866 (Kehoe) requires the California Department of Water Resources to develop, implement, and maintain a coordinated water use database and standard web-based reporting forms for diverted surface water. It also requires DWR to report certain water use information to the Legislature.

The bill directs DWR to develop a statewide water use database in consultation with the State Water Resources Control Board, Department of Health Services, CBDA, and water suppliers. A stakeholder group convened by the CBDA will determine the scope and content of the database. DWR would provide the Legislature with a progress report by January 1, 2007, and complete the database by January 1, 2008. DWR, SWRCB and DHS would begin using the database for collecting measured use by January 1, 2010.

Agricultural water users also begin inputting data into the database by January 1, 2010. They will report farm-gate delivery data as specified. Suppliers of less than 2,000 acre-feet per year or those supplying 2,000 acres are exempted. Receipt of state grants or loans would be conditioned on compliance with these requirements.

The CBDA would assess if the collected data is sufficient to establish a causal link between farm-gate measurement accuracy and on-farm water application efficiency. If the data supports such assessment, CBDA will perform the analysis and prepare a report to the Legislature.

A diverter of surface water flows greater than 50 cubic feet per second, except Delta Island farmers diverting by siphon, shall report their diversions to SWRCB using the same reporting format. The 50 cubic feet per second threshold was selected because CALFED estimates that this captures 90 percent of all diverted volume (both riparian and appropriative) with only 20 percent of the diverters having to comply. Again, state grants or loans would be conditioned on compliance with these requirements.

These efforts make substantial progress toward implementing greater water use efficiency measures statewide.

SB 866 is included for reference in [Attachment 1](#).

Reason for Support

SB 866 (Kehoe) would create a single point of information for agricultural and urban water uses. Similar information is already being collected for urban suppliers through reports like urban water management plans. The bill would put that information in a usable form and add valuable information on uses in the agricultural sector. This information would help Metropolitan develop better water supply strategies and help determine the effectiveness of existing water measurement practices in the state. The additional submittals required under this legislation are expected to require negligible additional administrative work.

Policy

By Minute Item 45208, dated February 11, 2003, the Board adopted water conservation policy principles.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and express support for SB 866 as discussed in this letter.

Fiscal Impact: Negligible

Option #2

Withhold expressing a position on SB 866.

Fiscal Impact: None

Staff Recommendation

Option #1

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Stephen N. Arakawa Manager, Water Resource Management	Date
<i>Gilbert F. Ivey</i>	3/1/2005
Gilbert F. Ivey Interim Chief Executive Officer	Date

Attachment 1 – Senate Bill No. 866

Introduced by Senator Kehoe

February 22, 2005

An act to add Division 32.5 (commencing with Section 81750) to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 866, as introduced, Kehoe. Water use measurement information.

Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a statement of diversion and use. Existing law requires other water users or suppliers to report other water use information to various state agencies. Existing law requires certain water suppliers to install water meters on specified service connections and to charge for water service each customer that has a service connection for which a water meter has been installed based on the actual volume of deliveries as measured by the water meter.

This bill would require the Department of Water Resources, not later than 2 years after the date on which the department completes each update of a specified water plan, to prepare and submit to the Legislature a report with regard to various matters concerning water use measurement information. The bill would require the department, in consultation with water suppliers and other state agencies, to develop and implement the use of a coordinated water use reporting database, along with standard forms for submitting information to be reflected in the database, to be made available through the Internet. The bill would require the authority to convene a group of technical staff and interested stakeholders to develop the scope and content of the database. The bill, not later than January 1, 2013, would require certain water users and suppliers required to report water use

measurement information to the state to do so by using the standard forms developed for use in connection with the database. The bill would provide for the submission of other reports to the Legislature relating to the use of the database.

The bill, with certain exceptions and not later than January 1, 2010, would require agricultural water suppliers to report, each year, aggregated farm-gate delivery data to the department using the standard forms. The bill, with a certain exception, would condition eligibility for certain grants or loans on compliance with this reporting requirement.

The bill, with certain exceptions and not later than January 1, 2010, would require persons diverting surface water to measure and report, at least annually, those diversions to the board using the standard forms. The bill, with a certain exception, would condition eligibility for certain grants or loans to persons who divert surface water for agricultural use on compliance with this reporting requirement.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) As growth and development continue to make California's
- 4 water resources increasingly scarce, diverse stakeholder groups
- 5 have recognized the importance of water measurement.
- 6 Appropriate measurement of water use leads to better water
- 7 supply reliability by making critical information available to
- 8 local, state, and federal water managers and planners in order to
- 9 aid them in better providing for future needs.
- 10 (b) The CALFED Bay-Delta Program Record of Decision
- 11 called for the development of a definition of appropriate
- 12 measurement and the implementation of appropriate
- 13 measurement actions.
- 14 (c) (1) On April 8, 2004, the California Bay-Delta Authority
- 15 approved a water use measurement proposal, that was developed
- 16 through an open multiyear process of technical review and
- 17 consultation by diverse stakeholders and agencies and was
- 18 designed to result in a balanced package of actions that together
- 19 can advance meaningful and beneficial change. The

1 authority-approved water use measurement proposal consisted of
2 several elements, including actions to be submitted for legislative
3 enactment prior to full implementation, as well as administrative
4 actions to be implemented under existing authority.

5 (2) Actions to be required by legislative enactment include all
6 of the following:

7 (A) Requiring the measurement of urban service water
8 deliveries by urban water suppliers, which requirement was
9 enacted into law in 2004.

10 (B) Requiring the reporting of aggregate “farm-gate” delivery
11 data by agricultural water suppliers to the Department of Water
12 Resources.

13 (C) Requiring the measurement and reporting of surface water
14 diversions by diverters to the State Water Resources Control
15 Board.

16 (D) Requiring the development and implementation of a
17 coordinated water use reporting database, along with the use of
18 standard reporting forms by the Department of Water Resources,
19 State Water Resources Control Board, State Department of
20 Health Services, and California Bay-Delta Authority.

21 (3) Actions to be implemented administratively, under existing
22 authority and with stakeholder involvement, include all of the
23 following:

24 (A) Measuring cropwater consumption using remote sensing
25 and more frequent assessment of net groundwater usage by the
26 Department of Water Resources.

27 (B) Conducting ongoing water measurement research and
28 adaptive management by the California Bay-Delta Authority and
29 Department of Water Resources.

30 (C) Requiring the reporting of specific water source and
31 customer delivery data by urban water suppliers to be performed
32 by the State Department of Health Services, in consultation with
33 the Department of Water Resources.

34 (d) The Department of Water Resources, State Water
35 Resources Control Board, State Department of Health Services,
36 and California Bay-Delta Authority should cooperate and
37 coordinate their efforts in collecting, managing, and utilizing
38 water use measurement information, to ensure that the
39 information is put to optimal use in water resource planning and
40 decisionmaking, to increase efficiency, and to reduce redundancy

1 of effort, agency costs, and duplicative reporting burdens on
2 persons required to report measurement information. Interagency
3 coordination is particularly necessary for the purposes of
4 developing forms, protocols, data sets, research on
5 measurement-related issues, and for the purpose of undertaking
6 adaptive management to identify future actions to improve water
7 use measurement in California.

8 SEC. 2. Division 32.5 (commencing with Section 81750) is
9 added to the Water Code, to read:

10

11 DIVISION 32.5. WATER USE MEASUREMENT
12 INFORMATION
13

13

14 81750. Unless the context indicates otherwise, the definitions
15 set forth in this section govern the construction of this division.

16 (a) "Agricultural water supplier" shall have the meaning set
17 forth in Section 10902.

18 (b) "Authority" means the California Bay-Delta Authority.

19 (c) "Best available technologies" means flow totaling devices
20 and, if necessary, data loggers and telemetry, or their functional
21 equivalent.

22 (d) "Best professional practices" means operations,
23 maintenance, and data collection activities that ensure optimal
24 accuracy and precision of measurement installations.

25 (e) "Diverting" means diverting water in the manner described
26 in Section 5100.

27 (f) "Farm-gate delivery data" means information collected
28 relevant to the amount of water delivered by an agricultural water
29 supplier from that supplier's distribution facility to its customers.

30 (g) "Person" shall have the meaning set forth in Section 5100.

31 (h) "Tidal zone" means those portions of the Sacramento-San
32 Joaquin Delta, as described in Section 12220, that are ordinarily
33 subject to tidal action.

34 (i) "Water" refers to groundwater and surface water.

35 81751. (a) Not later than two years after the date on which
36 the department completes each update of the California Water
37 Plan, the department shall prepare and submit to the Legislature
38 a report on the progress, status, and results of each of the
39 following:

1 (1) The coordinated state water use reporting database,
2 including a general summary of the data contained in the
3 database, and an assessment of its accuracy and thoroughness.

4 (2) A water use measurement research agenda, including a
5 description of priorities for water use measurement research
6 identified by the Independent Science Board established pursuant
7 to Section 79470.

8 (3) A review evaluating current and prior water use
9 measurement actions, including an assessment of any additional
10 measurement actions that the department recommends for
11 advancement through budgetary, administrative, regulatory, or
12 legislative means.

13 (b) The report shall also include a description of the progress,
14 status, and results of each of the following, to the extent not
15 covered in previous reports:

16 (1) Studies regarding the degree of correlation between water
17 use efficiency and farm-gate measurement, including, but not
18 necessarily limited to, the information described in subdivision
19 (e) of Section 81753.

20 (2) Agricultural water use measurement and reporting needs
21 associated with return flow, water quality, and instream gauging.

22 (3) Effectiveness of the measurement and reporting actions set
23 forth in the authority-approved water use measurement proposal,
24 dated April 8, 2004, as implemented, and the extent to which the
25 implementation of those actions has increased or decreased the
26 overall reporting workload for water suppliers.

27 (4) Progress or obstacles with regard to the implementation of
28 the actions described in the authority-approved water use
29 measurement proposal.

30 (c) The department shall prepare each report in consultation
31 with the board and State Department of Health Services and,
32 prior to submitting the final report to the Legislature, shall
33 provide the authority an opportunity to review and comment
34 upon a draft of the report.

35 81752. (a) (1)The department, in consultation with water
36 suppliers, the board, the State Department of Health Services,
37 and the authority, shall develop and implement the use of a
38 coordinated water use reporting database, along with standard
39 forms for submitting information to be reflected in the database,

1 to be made available through the Internet, in accordance with this
2 division.

3 (2) The authority shall convene a group of technical staff from
4 each of the agencies identified in this subdivision and interested
5 stakeholders for the purpose of developing the scope and content
6 of the database.

7 (b) The database and standard forms shall be developed with
8 the intent to facilitate the reporting, receiving, compiling, storing,
9 managing, evaluating, and making available of measurement
10 information, while reducing redundancy and duplication of
11 effort, consistent with the proposed reporting requirements set
12 forth in the authority-approved water use measurement proposal.

13 (c) Not later than January 1, 2007, and after review of the draft
14 report by the authority, the department shall prepare and submit
15 to the Legislature a progress report describing the status of the
16 development of the database and identifying strategies for
17 overcoming any obstacles to its completion. Not later than
18 January 1, 2008, the department shall prepare and submit to the
19 Legislature a final report describing the development of the
20 database.

21 (d) (1) Not later than January 1, 2008, the board, the State
22 Department of Health Services, and the department shall “beta
23 test” a version of the database. The beta test, and any resulting
24 modifications, shall be completed within one year.

25 (2) Not later than January 1, 2009, the board, the State
26 Department of Health Services, and the department shall notify
27 all identified water users or suppliers, that are required to report
28 water use measurement information to those respective state
29 agencies, with regard to the proposed schedule for using the new
30 database. The notice shall be provided at least 18 months prior to
31 commencing the use of the database.

32 (e) Not later than January 1, 2010, the board, the State
33 Department of Health Services, and the department shall
34 commence using the database for the collection of water use
35 measurement information. Each of the agencies identified in this
36 subdivision may separately determine the extent to which
37 measurement information collected by that agency prior to the
38 date of initial operation of the database will be entered into the
39 database.

1 (f) Except as otherwise provided in Section 81753 or 81754,
2 not later than January 1, 2013, any water user or supplier
3 required to report water use measurement information to the state
4 shall do so by using the standard forms developed pursuant to
5 this section, and the board, State Department of Health Services,
6 and department shall discontinue other methods of collecting
7 water use measurement information.

8 (g) The department shall maintain and manage the database.

9 81753. (a) (1) Not later than January 1, 2010, agricultural
10 water suppliers shall commence reporting each year aggregated
11 farm-gate delivery data to the department using the standard
12 forms developed pursuant to Section 81752.

13 (2) For the purposes of carrying out paragraph (1), agricultural
14 water suppliers shall summarize aggregated farm-gate delivery
15 data, on a monthly or bimonthly basis, using best professional
16 practices, and shall utilize accurate measurement figures,
17 reporting devices, and methodology.

18 (b) (1) Subdivision (a) does not apply to agricultural water
19 suppliers delivering less than 2,000 acre-feet of surface water
20 annually, or serving less than 2,000 acres of agricultural land.

21 (2) On or after January 1, 2012, the department, in
22 consultation with the authority, may submit written
23 recommendations to the Legislature regarding the exemptions set
24 forth in paragraph (1).

25 (c) (1) The terms of, and eligibility for, any grants or loans to
26 agricultural water suppliers provided or administered by the
27 department, board, or authority shall be conditioned on
28 compliance with this section.

29 (2) Notwithstanding paragraph (1), the department may certify
30 that an agricultural water supplier is eligible for a grant or loan
31 even though the supplier is not complying with this section, if the
32 agricultural water supplier demonstrates to the department's
33 satisfaction that the grant or loan would assist the grantee or loan
34 recipient in complying with this section.

35 (d) It is the intent of the Legislature that the requirements of
36 this section shall complement and not diminish the scope of
37 authority granted to the department or the board by provisions of
38 law other than this division.

39 (e) (1) Not later than January 1, 2012, the staff of the
40 authority, in consultation with their lead scientist, shall determine

1 if the data being collected under this section is sufficient to
2 establish whether a causal link exists between farm-gate
3 measurement accuracy and application efficiency.

4 (2) If the authority determines that the information is sufficient
5 for the purpose of paragraph (1), the authority shall comply with
6 paragraphs (3), (4), and (5).

7 (3) Subject to paragraph (2), not later than January 1, 2013, the
8 authority, in consultation with its lead scientist, shall complete a
9 preliminary evaluation to estimate the correlation between
10 farm-gate measurement accuracy and application efficiency, and
11 shall prepare and submit to the Legislature a report that includes
12 the results and conclusions of the preliminary evaluation.

13 (4) Subject to paragraph (2), not later than January 1, 2014, the
14 authority, in consultation with its lead scientist, shall complete
15 the final evaluation of any correlation between farm-gate
16 measurement accuracy and application efficiency, and shall
17 prepare and submit to the Legislature a report that includes the
18 results and conclusions of the final evaluation.

19 (5) Subject to paragraph (2), not later than January 1, 2015,
20 and based upon the final evaluation, the authority shall determine
21 whether the farm-gate measurement practices reflected in the
22 annual report prepared pursuant to subdivision (a) should be
23 altered. The determinations shall indicate which changes, if any,
24 should be made by legislative enactment and which changes, if
25 any, should be made by administrative action. The authority shall
26 submit these determinations, in writing, to the Legislature.

27 81754. (a) Not later than January 1, 2010, and
28 notwithstanding the nature of the right upon which a diversion is
29 based, a person diverting surface water shall measure and report
30 those diversions to the board, on at least an annual basis, using
31 the standard forms developed pursuant to Section 81752. The
32 reports shall include a summary of monthly diversion
33 measurement data. The measurement of the diversions shall be
34 made and reported using best available technologies and best
35 professional practices.

36 (b) (1) Subdivision (a) does not apply to surface water
37 diversions with a combined diversion capacity from a natural
38 channel of less than 50 cubic feet per second or to diverters using
39 siphons in the tidal zone.

1 (2) On or after January 1, 2012, the board, in consultation with
2 the authority, may submit written recommendation to the
3 Legislature regarding the exemptions set forth in paragraph (1).

4 (c) (1) The terms of, and eligibility for, any grants or loans to
5 persons who divert surface water for agricultural use provided or
6 administered by the board, the department, or the authority shall
7 be conditioned on compliance with this section.

8 (2) Notwithstanding paragraph (1), the department may certify
9 that a person who diverts surface water is eligible for a grant or
10 loan even if the person is not complying with this section, if the
11 person demonstrates to the department's satisfaction that the
12 grant or loan would assist the grantee or loan recipient in
13 complying with this section.

14 (d) It is the intent of the Legislature that the requirements of
15 this section shall complement and not diminish the scope of
16 authority granted to the department or the board by provisions of
17 law other than this division.