



Santa Clara Valley Water District

File No.: 24-0608

Agenda Date: 6/25/2024

Item No.: *4.4

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes ☐ No ☒
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Adopt Recommended Positions on State Legislation: AB 460 (Bauer-Kahan) Civil Penalties for Water Rights Violations, *AB 1581 (Kalra & Mathis) Restoration Management Permit Act, AB 1785 (Pacheco) California Public Records Act, *AB 2655 (Berman & Pellerin) Defending Democracy from Deepfake Deception Act, and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

REASON FOR SUPPLEMENTAL MEMORANDUM:

This supplemental Board agenda memorandum conveys additional information received after the initial agenda item was released, consistent with Executive Limitations Policy EL-7-10-5.

RECOMMENDATION:

- A. Adopt a position of "Support" on: AB 460 (Bauer-Kahan) Civil Penalties for Water Rights Violations; and
- B. *Adopt a position of "Support" on: AB 1581 (Kalra & Mathis) Restoration Management Permit Act;
- C. Adopt a position of "Support" on: AB 1785 (Pacheco) California Public Records Act; and
- D. *Adopt a position of "Support" on: AB 2655 (Berman & Pellerin) Defending Democracy from Deepfake Deception Act.

SUMMARY:

***AB 1581 (Kalra & Mathis) Restoration Management Permit Act (Amended-06/0/24)**

Position Recommendation: Support

Priority Recommendation: 2

Existing law, the Lake and Streambed Alteration Program, prohibits entities from diverting or obstructing the natural flow of, or substantially altering or using any material from the bed, channel or bank of any river, stream, or lake, or from depositing material where it can pass into a river, stream, or lake, unless a Lake and Streambed Alteration Agreement (LSAA) permit is authorized. Existing

law, the California Endangered Species Act (CESA), also prohibits the take or possession of any protected species, without proper authorization.

AB 1581 Restoration Management Permit Act would streamline the permitting process for environmental restoration projects in California, to support the 30x30 goal of conserving 30% of California's lands and coastal waters by 2030. Qualifying restoration projects would primarily focus on restoring native fish, wildlife, plants, or habitat, and may also have benefits to flood risk reduction, recreation, and groundwater recharge.

This bill would create a unified permitting mechanism through the Department of Fish and Wildlife (CDFW), allowing the department to issue a Restoration Management Permit to for qualifying restoration or management projects instead of a Lake and Streambed Alteration Permit, and would replace incidental take permits under CESA. AB 1581 also authorizes CDFW to develop guidelines for Restoration Management Permits and establishes a dedicated fund for collection of fees under the permit program.

Importance to Valley Water

Currently, restoration projects require up to five separate permits from the CDFW. The permitting process is currently affected by departments' lack of resources and staffing issues, causing long delays in issuing permits needed for project implementation. The timely implementation and effectiveness of restoration projects that mitigate the effects of climate change on the environment depend on the speed of the permit approval process. AB 1581 would facilitate implementation of projects that restore and enhance native ecosystems by creating a single permit, addressing the urgent need for habitat restoration in response to the increasingly frequent effects of climate change and biodiversity loss.

AB 1581 would reduce the complexity and costs associated with obtaining multiple permits for restoration activities and would reduce permitting delays that lead to cost increases for larger projects. Valley Water restoration projects, which are frequently subject to CDFW permitting, would benefit from only having to apply for one blanket Restoration Management Permit. For example, the South San Francisco Bay Shoreline Project, aims to address both flood protection and tidal marsh restoration, is subject to CDFW permitting and may benefit from the creation of a new permit to condense the timeline needed for approvals.

Staff recommends a position of "Support" on AB 1581.

Pros

- Expedites the permitting process for restoration projects by creating a single permit to authorize streambed alterations and the incidental take of protected species.

Cons

- Does not address issues with current permits, simply creates an alternate permitting pathway for restoration management projects.

***AB 2655 (Berman and Pellerin) Defending Democracy from Deepfake Deception Act of 2024 (Amended-06/11/24)**

Position Recommendation: Support

Priority Recommendation: 3

AB 2655 would require large online platforms with at least one million California users to block the posting or spread of elections-related content that is deemed materially deceptive because it is digitally modified or created to falsely appear to be an authentic record of the content depicted. Under the bill, candidates would be allowed to digitally create and modify content portraying themselves as doing or saying something that the candidate did not, but must label it with a disclosure stating, *“This image/audio/video has been manipulated.”*

This bill further would require large online platforms to detect digitally modified or created content, to develop procedures for blocking and preventing the posting or spreading of materially deceptive and digitally modified or created content, and to block and prevent that content if the platform knows or should know that the content meets specified requirements. All of AB 2655 provisions would apply only during a period beginning 120 days before the election and ending on the 60th day after the election.

The bill is intended ensure that online platforms restrict the spread of election-related deceptive deepfakes meant to prevent voters from voting or to deceive them based on fraudulent content. Deepfakes are a powerful tool in the arsenal of those that want to wage disinformation campaigns, and they have the potential to undermine democracy by attributing speech and conduct to a person that is false or that never happened.

Importance to Valley Water

Valley Water’s Board Directors are elected by the voters of Santa Clara County. Protecting the integrity of the elections that empower the Board Directors is critically important to the effective functioning of the agency in a manner that reflects community values. Advances in Artificial Intelligence (AI) make it easy for practically anyone to generate false and misleading content that closely resembles authentic content, making it important to identify and restrict deepfakes before they have the chance to deceive voters. The growth of social media platforms has facilitated the rapid, low-cost dissemination of deceptive media to large audiences. The power of AI paired with social media poses a large and growing threat through digitally manipulated, easily distributed media that may distort future elections.

AB 2655 aims to address this risk and protect free speech with thoughtful limits that are “narrowly tailored to serve an overriding state interest,” as required by federal case law in *McIntyre v. Ohio Elections Commission* (1995), 514 US 334. This bill narrowly targets deceptive content that could undermine the public’s trust in elections, discourage voter turnout, and distort election outcomes. It exempts content that is clearly comic parody, or that

is outside of the months just before and just after an election. The overriding state interest here is in the free and fair function of the electoral process.

Staff recommends a position of “Support” on AB 2655.

Pros

- Would restrict the spread of election-related deceptive deepfakes meant to prevent voters from voting or to deceive them based on fraudulent content.
- The bill’s provisions are limited to addressing concerns about restrictions on the freedom of speech.

Cons

- There is no guarantee a large online platform will definitively know if a piece of content has been manipulated so deepfake content may still be rapidly disseminated.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

There are no Environmental Justice impacts associated with this item. The Board’s position does not enact the legislation discussed above. If the enactment of state legislation necessitates an action by the Board, any associated Environmental Justice impacts will be assessed when the Board considers the action.

FINANCIAL IMPACT:

No fiscal impacts associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

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