

# CalMatters

By Rachel Becker, September 11, 2023

## Sort out water rights

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The Klamath River flows outside of Happy Camp on Aug. 29, 2022. Photo by Martin do Nascimento, CalMatters

By [Rachel Becker](#)

**WHAT THE BILL WOULD DO**

[SB 389](#), by Sen. [Ben Allen](#), a Democrat from Redondo Beach, spells out the state’s powers to investigate even the longest-standing claims to water from California’s rivers and streams. Under the state’s [byzantine, Gold Rush-era water rights system](#), so-called “senior water rights” holders — those who have claims to water flowing past their property or that pre-date a [1914 law](#) — use about a third of the surface water supply. They are not required to have permits or licenses, and the state’s power to investigate them has been murky.

This bill would authorize the State Water Board to investigate and seek verification of these water rights claims, as well as ask for information about water use. It also spells out that the board can take action against unauthorized water users under its existing authority.

## WHO SUPPORTS IT

The bill’s sponsor is the Planning and Conservation League, a nonprofit environmental lobbying organization. The group last year published a report from a panel of water experts who recommended [a slew of changes](#) to the state’s water rights system. Other supporters listed as of Sept. 9 include Sierra Club California, the Union of Concerned Scientists, Trout Unlimited, the Pacific Coast Federation of Fishermen’s Associations and the Karuk Tribe.

## WHO IS OPPOSED

The bill initially faced a long list of opponents, including water providers, builders, business interests, irrigation districts and agricultural groups, who said that the bill would “strip claimants of their rights with little due process.”

But the bill was amended to clarify due process requirements, drop a reference to forfeiting water rights and add a requirement that the board explain its requests for information. By the time the bill reached the Assembly floor, a coalition of opponents, including the powerful

Association of California Water Agencies, the California Farm Bureau and the California Chamber of Commerce, shifted to neutral.

## WHY IT MATTERS

The year started out with [three major bills](#) taking aim at reforming California's water rights system, which has been roundly criticized for its exclusion of Native peoples and people of color and for [promising more water than is available](#). [A standoff over the Shasta River](#), where local ranchers diverted water in violation of state orders and [faced a fine of roughly \\$50 each](#), publicly demonstrated the state's limited powers to enforce its priority system.

Of the three bills, Allen's bill is the only survivor, although the others may be revived next year.