

Assembly Bill No. 1152

Passed the Assembly August 22, 2011

Chief Clerk of the Assembly

Passed the Senate August 18, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 10927, 10932, and 10933 of the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

AB 1152, Chesbro. Groundwater.

(1) Existing law authorizes specified entities, including, among others, local agencies managing a groundwater basin or subbasin pursuant to existing law relating to groundwater management plans or integrated regional water management plans, to assume responsibility for monitoring and reporting groundwater elevations in all or a part of a groundwater basin or subbasin. Existing law requires an entity seeking to assume those functions to notify the Department of Water Resources, and requires the department to determine which entities will perform monitoring functions. Existing law requires monitoring entities to commence monitoring and reporting groundwater elevations on or before January 1, 2012.

This bill would add to the list of entities that may assume responsibility for monitoring and reporting groundwater elevations, a local agency that has been collecting and reporting groundwater elevations and that does not have a groundwater management plan, if the local agency adopts a groundwater management plan in accordance with specified provisions of existing law by January 1, 2014. The bill would permit the department to authorize the local agency to conduct monitoring and reporting of groundwater elevations on an interim basis, until the local agency adopts a groundwater management plan or until January 1, 2014, whichever occurs first.

The bill would authorize a monitoring entity to report groundwater elevations using specified alternate monitoring techniques for certain groundwater basins and subbasins meeting prescribed conditions. The bill would condition this authorization upon submission of a report to the department and a determination by the department that the monitoring entity may use the alternate monitoring techniques. The bill would require a monitoring entity, every 3 years, to submit to the department information establishing its continued eligibility to use the alternate monitoring techniques.

(2) Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken within specified groundwater basins and subbasins. If the department determines that all or part of a basin or subbasin is not being monitored, the department is required to attempt to contact all well owners within the area not being monitored and determine if there is an interest in establishing a specified groundwater management plan, integrated regional water management plan, or voluntary groundwater monitoring association. If the department determines that there is insufficient interest in establishing a plan or association, and the county decides not to perform groundwater monitoring and reporting functions, the department is required to determine whether existing monitoring wells provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations. If the department determines that the monitoring wells provide insufficient information to demonstrate those trends, and the State Mining and Geology Board concurs with that determination, the department is required to perform groundwater monitoring functions.

This bill would delete the requirement that the State Mining and Geology Board concur with the department's determination regarding the sufficiency of information provided by existing monitoring wells for purposes of the department's performance of groundwater monitoring functions.

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

SECTION 1. Section 10927 of the Water Code is amended to read:

10927. Any of the following entities may assume responsibility for monitoring and reporting groundwater elevations in all or a part of a basin or subbasin in accordance with this part:

(a) A watermaster or water management engineer appointed by a court or pursuant to statute to administer a final judgment determining rights to groundwater.

(b) (1) A groundwater management agency with statutory authority to manage groundwater pursuant to its principal act that is monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010.

(2) A water replenishment district established pursuant to Division 18 (commencing with Section 60000). This part does not expand or otherwise affect the authority of a water replenishment district relating to monitoring groundwater elevations.

(c) A local agency that is managing all or part of a groundwater basin or subbasin pursuant to Part 2.75 (commencing with Section 10750) and that was monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010, or a local agency or county that is managing all or part of a groundwater basin or subbasin pursuant to any other legally enforceable groundwater management plan with provisions that are substantively similar to those described in that part and that was monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010.

(d) A local agency that is managing all or part of a groundwater basin or subbasin pursuant to an integrated regional water management plan prepared pursuant to Part 2.2 (commencing with Section 10530) that includes a groundwater management component that complies with the requirements of Section 10753.7.

(e) A local agency that has been collecting and reporting groundwater elevations and that does not have an adopted groundwater management plan, if the local agency adopts a groundwater management plan in accordance with Part 2.75 (commencing with Section 10750) by January 1, 2014. The department may authorize the local agency to conduct the monitoring and reporting of groundwater elevations pursuant to this part on an interim basis, until the local agency adopts a groundwater management plan in accordance with Part 2.75 (commencing with Section 10750) or until January 1, 2014, whichever occurs first.

(f) A county that is not managing all or a part of a groundwater basin or subbasin pursuant to a legally enforceable groundwater management plan with provisions that are substantively similar to those described in Part 2.75 (commencing with Section 10750).

(g) A voluntary cooperative groundwater monitoring association formed pursuant to Section 10935.

SEC. 2. Section 10932 of the Water Code is amended to read:

10932. (a) Monitoring entities shall commence monitoring and reporting groundwater elevations pursuant to this part on or before January 1, 2012.

(b) For purposes of reporting groundwater elevations pursuant to this part, and subject to subdivision (c), a monitoring entity may use alternate monitoring techniques for a basin or subbasin, instead of monitoring groundwater elevations directly through monitoring wells, if the basin or subbasin meets any of the following conditions:

(1) Groundwater elevations are unaffected by land use activities or planned land use activities, or naturally occurring total dissolved solids within the groundwater preclude the use of that water.

(2) It is underlying land that is wholly owned or controlled, individually or collectively, by state, tribal, or federal authorities, and groundwater monitoring information is not available or was requested from, but not provided by, the state, tribal, or federal authorities.

(3) It is underlying an area where geographic or geologic features make monitoring impracticable, including, but not limited to, a basin or subbasin that is inaccessible to well-drilling equipment.

(c) Before using an alternate monitoring technique pursuant to subdivision (b), a monitoring entity shall submit to the department a report, signed by a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, setting forth the factual basis and supporting documentation demonstrating that the basin or subbasin meets any of the conditions set forth in subdivision (b). Upon receiving the report, the department shall determine, in its discretion, whether the monitoring entity may use an alternate monitoring technique, and the alternate monitoring techniques that may be used, for the basin or subbasin. For a basin or subbasin that the department has determined is eligible to use an alternate monitoring technique, the department shall determine whether information provided by the monitoring entity using the alternate monitoring technique is sufficient to comply with the monitoring and reporting requirements of subdivision (a).

(d) (1) Within 60 days of finding that a basin or subbasin no longer meets any of the conditions set forth in subdivision (b), the monitoring entity shall report that finding to the department. Not later than 12 months after providing that report, the monitoring entity shall commence monitoring and reporting groundwater elevations using monitoring wells.

(2) A failure to comply with the report requirements of paragraph (1) shall constitute noncompliance with the monitoring and reporting requirements of subdivision (a).

(e) Every three years following an initial determination by the department pursuant to subdivision (c), a monitoring entity shall submit sufficient information, as may be determined by the department, establishing its continued eligibility to use alternate monitoring techniques in accordance with this section.

(f) A determination by the department pursuant to this section shall be final and conclusive.

(g) For purposes of this section, an “alternate monitoring technique” may include, but is not limited to, one or more of the following, as the department may determine to be appropriate:

- (1) Hydrologic records for the basin or subbasin.
- (2) Well permits or similar reports from within the area overlying the basin or subbasin.
- (3) Aerial photographs.
- (4) Remote sensing data.

SEC. 3. Section 10933 of the Water Code is amended to read:

10933. (a) On or before January 1, 2012, the department shall commence to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin and subbasin.

(b) The department shall prioritize groundwater basins and subbasins for the purpose of implementing this section. In prioritizing the basins and subbasins, the department shall, to the extent data are available, consider all of the following:

- (1) The population overlying the basin or subbasin.
- (2) The rate of current and projected growth of the population overlying the basin or subbasin.
- (3) The number of public supply wells that draw from the basin or subbasin.
- (4) The total number of wells that draw from the basin or subbasin.
- (5) The irrigated acreage overlying the basin or subbasin.
- (6) The degree to which persons overlying the basin or subbasin rely on groundwater as their primary source of water.
- (7) Any documented impacts on the groundwater within the basin or subbasin, including overdraft, subsidence, saline intrusion, and other water quality degradation.

(8) Any other information determined to be relevant by the department.

(c) If the department determines that all or part of a basin or subbasin is not being monitored pursuant to this part, the department shall do all of the following:

(1) Attempt to contact all well owners within the area not being monitored.

(2) Determine if there is an interest in establishing any of the following:

(A) A groundwater management plan pursuant to Part 2.75 (commencing with Section 10750).

(B) An integrated regional water management plan pursuant to Part 2.2 (commencing with Section 10530) that includes a groundwater management component that complies with the requirements of Section 10753.7.

(C) A voluntary groundwater monitoring association pursuant to Section 10935.

(d) If the department determines that there is sufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), or if the county agrees to perform the groundwater monitoring functions in accordance with this part, the department shall work cooperatively with the interested parties to comply with the requirements of this part within two years.

(e) If the department determines, with regard to a basin or subbasin, that there is insufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), and if the county decides not to perform the groundwater monitoring and reporting functions of this part, the department shall do all of the following:

(1) Identify any existing monitoring wells that overlie the basin or subbasin that are owned or operated by the department or any other state or federal agency.

(2) Determine whether the monitoring wells identified pursuant to paragraph (1) provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations.

(3) If the department determines that the monitoring wells identified pursuant to paragraph (1) provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations, the department shall not perform groundwater monitoring functions pursuant to Section 10933.5.

(4) If the department determines that the monitoring wells identified pursuant to paragraph (1) provide insufficient information to demonstrate seasonal and long-term trends in groundwater elevations, the department shall perform groundwater monitoring functions pursuant to Section 10933.5.

Approved _____, 2011

Governor