

ASSEMBLY BILL

No. 455

Introduced by Assembly Member Bigelow

February 23, 2015

An act to add Section 21168.6.9 to the Public Resources Code, and to amend Section 10728.6 of the Water Code, relating to groundwater management.

LEGISLATIVE COUNSEL'S DIGEST

AB 455, as introduced, Bigelow. Groundwater sustainability plans: environmental impact reports.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA establishes a procedure for the filing of an action or proceeding challenging a lead agency's action on the grounds of noncompliance with CEQA.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act exempts the preparation and adoption of a

groundwater sustainability plan or coordinated groundwater sustainability plan from the provisions of CEQA, but does not exempt a project that would implement actions taken pursuant to the plan.

This bill would require the Judicial Council, on or before July 1, 2016, to adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of an EIR for projects covered by a groundwater sustainability plan that require the actions or proceedings be resolved within 270 days of certification of the record of proceeding. The bill would also prohibit the court from staying or enjoining the construction or operation of the project unless the court makes a certain finding.

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. Section 21168.6.9 is added to the Public
- 2 Resources Code, to read:
- 3 21168.6.9. (a) For purposes of this section, “project” means
- 4 a project that would implement actions taken pursuant to a plan
- 5 adopted pursuant to the Sustainable Groundwater Management
- 6 Act (Part 2.74 (commencing with Section 10720) of Division 6 of
- 7 the Water Code).
- 8 (b) On or before July 1, 2016, the Judicial Council shall adopt
- 9 a rule of court to establish procedures applicable to actions or
- 10 proceedings brought to attack, review, set aside, void, or annul the
- 11 certification of an environmental impact report for a project that
- 12 requires the actions or proceedings, including any potential appeals
- 13 therefrom, be resolved within 270 days of certification of the record
- 14 of proceedings.
- 15 (c) In granting relief in an action or proceeding brought pursuant
- 16 to this section, the court shall not stay or enjoin the construction
- 17 or operation of the project unless the court finds either of the
- 18 following:
- 19 (1) The continued construction or operation of the project
- 20 presents an imminent threat to the public health and safety.
- 21 (2) The project site contains unforeseen important Native
- 22 American artifacts or unforeseen important historical,
- 23 archaeological, or ecological values that would be materially,

1 permanently, and adversely affected by the continued construction
2 or operation of the project.

3 (d) If the court makes a finding described in subdivision (c),
4 the court shall only enjoin those specific activities associated with
5 the project that present an imminent threat to public health and
6 safety or that materially, permanently, and adversely affect
7 unforeseen important Native American artifacts or unforeseen
8 important historical, archaeological, or ecological values.

9 SEC. 2. Section 10728.6 of the Water Code is amended to read:

10 10728.6. Division 13 (commencing with Section 21000) of the
11 Public Resources Code does not apply to the preparation and
12 adoption of plans pursuant to this chapter. Nothing in this part
13 shall be interpreted as exempting from Division 13 (commencing
14 with Section 21000) of the Public Resources Code a project that
15 would implement actions taken pursuant to a plan adopted pursuant
16 to this chapter. *Notwithstanding any other law, the procedures*
17 *established pursuant to Section 21168.6.9 of the Public Resources*
18 *Code shall apply to an action or proceeding brought to attack,*
19 *renew, set aside, void, or annul the certification of the*
20 *environmental impact report for such a project.*